

ASSEMBLY BILL

No. 2922

Introduced by Assembly Member Jones

February 24, 2006

An act to amend Sections 33333.10, 33334.3, 33334.4, 33334.14, 33411.2, 33411.3, 33413, and 33413.5 of, and to amend, repeal, and add Sections 33334.2, 33334.6, and 33487 of, the Health and Safety Code, relating to redevelopment.

LEGISLATIVE COUNSEL'S DIGEST

AB 2922, as introduced, Jones. Redevelopment: Low and Moderate Income Housing Fund.

Existing law authorizes redevelopment agencies to pay the principal of, and interest on, indebtedness incurred to finance or refinance redevelopment, from a portion of property tax revenues diverted from other taxing agencies. The portion of taxes diverted is the amount attributable to increases in assessed valuation of property in the redevelopment project area subsequent to establishment thereof. This method of financing is commonly known as “tax increment” financing and is specifically authorized by Section 16 of Article XVI of the California Constitution.

Existing law requires a redevelopment agency to use at least 20% of its tax increment revenues for the purposes of increasing, improving, and preserving the community’s supply of low- and moderate-income housing available at affordable cost to persons and families of low or moderate income and lower, very low, and extremely low income households that are occupied by these persons and families unless the agency makes certain findings. These funds are required to be deposited in a separate Low and Moderate Income Housing Fund.

This bill would increase to 50% the amount a redevelopment agency would be required to set aside for its low- and moderate-income housing obligation. The bill would permit a redevelopment agency to set aside less in specified circumstances and would make an agency liable for the deficit so created. The bill would make these deficit amounts an indebtedness of the agency and would add simple interest at the average rate earned by the housing fund if the deficit is not eliminated in 5 years.

Existing law requires covenants and restrictions on the affordability of all new or substantially rehabilitated housing units developed or assisted with funds required to be used for low- and moderate-income housing to be recorded in the office of the county recorder and makes those covenants and restrictions enforceable by the agency or the community.

This bill would make the covenants and restrictions enforceable by any interested party, including a person or family of low or moderate income that is eligible to reside in the property and would require the agency to obtain and maintain a copy of the covenants and restrictions.

Existing law requires a redevelopment agency to replace dwelling units housing persons and families of low- or moderate-income that are destroyed or removed from the low- and moderate-income housing market as part of a redevelopment project that is subject to a written agreement with the agency or where financial assistance is provided by the agency. Existing law requires the agency to keep a list of displaced persons and families of low and moderate income who are to be given priority in renting or buying the replacement housing and authorizes an agency to establish reasonable rules for determining the order or priority on the list.

This bill would require that displaced persons of low or moderate income be given a right of first refusal to occupy replacement housing and would require the redevelopment agency to establish rules for determining the order or priority of persons who are required to be given priority. The bill would subject the agency to the replacement requirement when dwelling units housing persons and families of low or moderate income are destroyed or removed from that market by the agency or any other public entity as part of a redevelopment project. The bill would require that the displaced household be presumed to have been extremely low income if the income level of the displaced household is not verified or known by the agency.

Existing law requires a redevelopment agency to adopt by resolution a replacement housing plan not less than 30 days before the execution of an agreement for acquisition of real property or the disposition and development of property, or the execution of an owner participation agreement, if agreement would lead to the destruction or removal of dwelling units from the low- and moderate-income housing market and requires the agency to make available a draft of the plan for review and comment by the project area committee, other public agencies, and the general public for a reasonable time before adopting a replacement housing plan by resolution.

This bill would require the plan to be adopted 180 days before the execution of the agreement or before any action by the agency or any other public entity. The agency would be required to make the draft available to the public 90 days before adopting it. The bill would make these requirements applicable when an agency destroys or removes housing the agency owns and is an immediate danger to health and safety.

Existing law requires a redevelopment agency to expend, over the duration of its redevelopment implementation plan, the moneys in the Low and Moderate Income Housing Fund to assist housing for persons of low income and housing for persons of very low income in at least the same proportion as the number of housing units needed for each of those income groups bears to the total number of units needed for persons of moderate, low, and very low income within the community.

This bill would instead require a redevelopment agency to assist in making available a number of housing units that are affordable to, and occupied by, extremely low and very low income persons that is at least equal to the number of units that are affordable to low- and moderate-income persons.

The provisions in the bill would generally become operative on July 1, 2007.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 33333.10 of the Health and Safety Code
2 is amended to read:

1 33333.10. (a) (1) Notwithstanding the time limits in
2 subdivisions (a) and (b) of Section 33333.6, an agency that
3 adopted a redevelopment plan on or before December 31, 1993,
4 may, pursuant to this section, amend that plan to extend the time
5 limit on effectiveness of the plan for up to 10 additional years
6 beyond the limit allowed by subdivision (a) of Section 33333.6.

7 (2) In addition, the agency may, pursuant to this section,
8 amend that plan to extend the time limit on the payment of
9 indebtedness and receipt of property taxes to be not more than 10
10 years from the termination of the effectiveness of the
11 redevelopment plan as that time limit has been amended pursuant
12 to paragraph (1).

13 (b) A redevelopment plan may be amended pursuant to
14 subdivision (a) only after the agency finds, based on substantial
15 evidence, that both of the following conditions exist:

16 (1) Significant blight remains within the project area.

17 (2) This blight cannot be eliminated without extending the
18 effectiveness of the plan and the receipt of property taxes.

19 (c) As used in this section:

20 (1) "Blight" has the same meaning as that term is given in
21 Section 33030.

22 (2) "Significant" means important and of a magnitude to
23 warrant agency assistance.

24 (3) "Necessary and essential parcels" means parcels that are
25 not blighted but are so necessary and essential to the elimination
26 of the blight that these parcels should be included within the
27 portion of the project area in which tax increment funds may be
28 spent. "Necessary and essential parcels" are (A) parcels that are
29 adjacent to one or more blighted parcels that are to be assembled
30 in order to create a parcel of adequate size given present
31 standards and market conditions, and (B) parcels that are
32 adjacent or near parcels that are blighted on which it is necessary
33 to construct a public improvement to eliminate the blight.

34 (d) For purposes of this section, significant blight can exist in
35 a project area even though blight is not prevalent in a project
36 area. The report submitted to the legislative body pursuant to
37 Section 33352 shall identify on a map the portion of the project
38 area in which significant blight remains.

39 (e) After the limit on the payment of indebtedness and receipt
40 of property taxes that would have taken effect but for the

1 amendment pursuant to this section, except for funds deposited in
2 the Low and Moderate Income Housing Fund pursuant to Section
3 33334.2 or 33334.6, the agency shall spend tax increment funds
4 only within the portion of the project area that has been identified
5 in the report adopted pursuant to Section 33352 as the area
6 containing blighted parcels and necessary and essential parcels.
7 Except as otherwise limited by subdivisions (f) and (g), agencies
8 may continue to spend funds deposited in the Low and Moderate
9 Income Housing Fund in accordance with this division.

10 (f) (1) Except as otherwise provided in this subdivision, after
11 the limit on the payment of indebtedness and receipt of property
12 taxes that would have taken effect, but for the amendment
13 pursuant to this section, agencies shall only spend moneys from
14 the Low and Moderate Income Housing Fund for the purpose of
15 increasing, improving, and preserving the community's supply of
16 housing at affordable housing cost to persons and families of
17 low, very low, or extremely low income, as defined in Sections
18 50079.5, 50093, 50105, and 50106. During this period, an agency
19 that has adopted an amendment pursuant to subdivision (a) may
20 use moneys from the Low and Moderate Income Housing Fund
21 for the purpose of increasing, improving, and preserving housing
22 at affordable housing cost to persons and families of moderate
23 income as defined in Section 50093. However, this amount shall
24 not exceed, in a five-year period, the amount of moneys from the
25 Low and Moderate Income Housing Fund that are used to
26 increase, improve, and preserve housing at affordable housing
27 cost to persons and families of extremely low income, as defined
28 in Section 50106. In no case shall the amount expended for
29 housing for persons and families of moderate income exceed 15
30 percent of the annual amount deposited in the Low and Moderate
31 Income Housing Fund during a five-year period and the number
32 of housing units affordable to moderate-income persons shall not
33 exceed the number of housing units affordable to extremely low
34 income persons.

35 (2) Commencing with the first fiscal year that commences
36 after the date of the adoption of an amendment pursuant to
37 subdivision (a) and until the limit on the payment of indebtedness
38 and receipt of property taxes that would have taken effect but for
39 the amendment pursuant to this section, an agency that has
40 adopted an amendment pursuant to subdivision (a) may use

1 moneys from the Low and Moderate Income Housing Fund for
2 the purpose of increasing, improving, and preserving housing at
3 affordable housing cost to persons and families of moderate
4 income as defined in Section 50093. However, this amount shall
5 not exceed, in a five-year period, 15 percent of the amount of
6 moneys deposited in the Low and Moderate Income Housing
7 Fund during that five-year period and shall only be used to assist
8 housing projects in which no less than 49 percent of the units are
9 affordable to and occupied by persons and families of low, very
10 low, or extremely low income. An agency may spend an
11 additional amount of moneys in the same or other housing
12 projects to assist housing units affordable to and occupied by
13 moderate-income persons. However, this amount shall not
14 exceed the lesser of: the amount of moneys spent to increase,
15 improve, and preserve housing at affordable housing cost to
16 persons and families of extremely low income as defined in
17 Section 50106, or 5 percent of the moneys deposited in the Low
18 and Moderate Income Housing Fund during that five-year period.

19 (g) (1) Except as provided in paragraph (2) or (3),
20 commencing with the first fiscal year that commences after the
21 date of adoption of an amendment pursuant to subdivision (a),
22 not less than 30 percent, *or 50 percent commencing with the*
23 *2007–08 fiscal year*, of all taxes that are allocated to the agency
24 pursuant to Section 33670 from the redevelopment project area
25 so amended shall be deposited into that project's Low and
26 Moderate Income Housing Fund for the purposes specified in
27 subdivision (f).

28 (2) In any fiscal year, the agency may deposit less than the
29 amount required by paragraph (1), but not less than the amount
30 required by Section 33334.2 or 33334.6, into the Low and
31 Moderate Income Housing Fund if the agency finds that the
32 difference between the amount deposited and the amount
33 required by paragraph (1) is necessary to make principal and
34 interest payments during that fiscal year on bonds sold by the
35 agency to finance or refinance the redevelopment project prior to
36 six months before the date of adoption of the amendment
37 pursuant to subdivision (a). Bonds sold by the agency prior to six
38 months before the date of the adoption of the amendment
39 pursuant to subdivision (a) may only be refinanced, refunded, or
40 restructured after the date of the amendment pursuant to

subdivision (a). However, for purposes of this section, bonds refinanced, refunded, or restructured after the date of the amendment pursuant to subdivision (a) may only be treated as if sold on the date the original bonds were sold if (A) the net proceeds were used to refinance the original bonds, (B) there is no increase in the amount of principal at the time of refinancing, restructuring, or refunding, and (C) the time during which the refinanced indebtedness is to be repaid does not exceed the date on which the existing indebtedness would have been repaid.

(3) No later than 120 days prior to depositing less than the amount required by paragraph (1) into the Low and Moderate Income Housing Fund, the agency shall adopt, by resolution after a noticed public hearing, a finding that the difference between the amount allocated and the amount required by paragraph (1) is necessary to make payments on bonds sold by the agency to finance or refinance the redevelopment project and identified in the preliminary report adopted pursuant to paragraph (9) of subdivision (e) of Section 33333.11, and specifying the amount of principal remaining on the bonds, the amount of annual payments, and the date on which the indebtedness will be repaid. Notice of the time and place of the public hearing shall be published in a newspaper of general circulation once a week for at least two successive weeks prior to the public hearing. The agency shall make available to the public the proposed resolution no later than the time of the publication of the first notice of the public hearing. A copy of the resolution shall be transmitted to the Department of Housing and Community Development within 10 days after adoption.

(4) Notwithstanding paragraph (1), an agency that sells bonds on or after the date of adoption of an amendment pursuant to subdivision (a), the repayment of which is to be made from taxes allocated to the agency pursuant to Section 33670 from the project so amended, may elect to subordinate up to 16 $\frac{2}{3}$ percent of its annual 30-percent, *or 50 percent commencing in the 2007–08 fiscal year*, Low and Moderate Income Housing Fund deposit obligation to the payment of debt service on the bonds. If the agency makes that election and in any year the agency has insufficient tax-increment revenue available to pay debt service on the bonds to which the funds from the Low and Moderate Income Housing Fund are subordinated, the agency may deposit

1 less than the full 100 percent of its annual 30-percent, *or 50*
2 *percent commencing in the 2007–08 fiscal year*; Low and
3 Moderate Income Housing Fund obligation but only to the extent
4 necessary to pay that debt service and in no event shall less than
5 $83\frac{1}{3}$ percent of that obligation be deposited into the Low and
6 Moderate Income Housing Fund for that year. The difference
7 between the amount that is actually deposited in the Low and
8 Moderate Income Housing Fund and the full 100 percent of the
9 agency's 30-percent, *or 50 percent commencing in the 2007–08*
10 *fiscal year*; Low and Moderate Income Housing Fund deposit
11 obligation shall constitute a deficit in the Low and Moderate
12 Income Housing Fund subject to repayment pursuant to
13 paragraph (5).

14 (5) If, pursuant to paragraph (2) or (4), the agency deposits
15 less than 30 percent, *or 50 percent commencing in the 2007–08*
16 *fiscal year*, of the taxes allocated to the agency pursuant to
17 Section 33670 in any fiscal year in the Low and Moderate
18 Income Housing Fund, the amount equal to the difference
19 between 30 percent, *or 50 percent commencing in the 2007–08*
20 *fiscal year*, of the taxes allocated to the agency pursuant to
21 Section 33670 for each affected redevelopment project area and
22 the amount actually deposited in the Low and Moderate Income
23 Housing Fund for that fiscal year shall be established as a deficit
24 in the Low and Moderate Income Housing Fund. Any new tax
25 increment funds not encumbered pursuant to paragraph (2) or (4)
26 shall be utilized to reduce or eliminate the deficit prior to
27 entering into any new contracts, commitments, or indebtedness.
28 The obligations imposed by this section are hereby declared to be
29 an indebtedness of the redevelopment project to which they
30 relate, payable from taxes allocated to the agency pursuant to
31 Section 33670 and, notwithstanding any other provision of law,
32 shall constitute an indebtedness of the agency with respect to the
33 redevelopment project, and the agency shall continue to receive
34 allocations of taxes pursuant to Section 33670 until the deficit is
35 paid in full.

36 (h) An agency may not amend its redevelopment plan pursuant
37 to this section unless the agency first adopts a resolution that
38 finds, based on substantial evidence, all of the following:

39 (1) The community has adopted a housing element that the
40 department has determined pursuant to Section 65585 of the

1 Government Code to be in substantial compliance with the
2 requirements of Article 10.6 (commencing with Section 65580)
3 of Chapter 3 of Division 1 of Title 7 of the Government Code, or
4 if applicable, an eligible city or county within the jurisdiction of
5 the San Diego Association of Governments has adopted a
6 self-certification of compliance with its adopted housing element
7 pursuant to Section 65585.1 of the Government Code.

8 (2) During the three fiscal years prior to the year in which the
9 amendment is adopted, the agency has not been included in the
10 report sent by the Controller to the Attorney General pursuant to
11 subdivision (b) of Section 33080.8 as an agency that has a “major
12 violation” pursuant to Section 33080.8.

13 (3) After a written request by the agency and provision of the
14 information requested by the department, the department has
15 issued a letter to the agency, confirming that the agency has not
16 accumulated an excess surplus in its Low and Moderate Income
17 Housing Fund. As used in this section, “excess surplus” has the
18 same meaning as that term is defined in Section 33334.12. The
19 department shall develop a methodology to collect information
20 required by this section. Information requested by the department
21 shall include a certification by the agency’s independent auditor
22 on the status of excess surplus and submittal of data for the
23 department to verify the status of excess surplus. The
24 independent auditor shall make the required certification based
25 on the Controller’s office guidelines which shall include the
26 methodology prescribed by the department pursuant to
27 subparagraph (D) of paragraph (3) of subdivision (g) of Section
28 33334.12. If the department does not respond to the written
29 request of the agency for this determination within 90 days after
30 receipt of the written request, compliance with this requirement
31 shall be deemed confirmed.

32 (i) Each redevelopment plan that has been adopted prior to
33 January 1, 1976, that is amended pursuant to subdivision (a) shall
34 also be amended at the same time to make subdivision (b) of
35 Section 33413 applicable to the redevelopment plan in
36 accordance with paragraph (1) of subdivision (d) of Section
37 33413.

38 (j) The amendment to the redevelopment plan authorized
39 pursuant to this section shall be made by ordinance pursuant to
40 Article 12 (commencing with Section 33450). The ordinance

1 shall be subject to referendum as prescribed by law for
2 ordinances of the legislative body.

3 (k) This section shall not apply to a project area that retains its
4 eligibility to incur indebtedness and receive tax increment
5 revenues pursuant to Section 33333.7.

6 (l) The limitations established in the ordinance adopted
7 pursuant to this section shall not be applied to limit allocation of
8 taxes to an agency to the extent required to comply with Section
9 33333.8. In the event of a conflict between these limitations and
10 the obligations under Section 33333.8, the limitation established
11 in the ordinance shall be suspended pursuant to Section 33333.8.

12 SEC. 2. Section 33334.2 of the Health and Safety Code is
13 amended to read:

14 33334.2. (a) Not less than 20 percent of all taxes that are
15 allocated to the agency pursuant to Section 33670 shall be used
16 by the agency for the purposes of increasing, improving, and
17 preserving the community's supply of low- and moderate-income
18 housing available at affordable housing cost, as defined by
19 Section 50052.5, to persons and families of low or moderate
20 income, as defined in Section 50093, lower income households,
21 as defined by Section 50079.5, very low income households, as
22 defined in Section 50105, and extremely low income households,
23 as defined by Section 50106, that is occupied by these persons
24 and families, unless one of the following findings is made
25 annually by resolution:

26 (1) (A) That no need exists in the community to improve,
27 increase, or preserve the supply of low- and moderate-income
28 housing, including housing for very low income households in a
29 manner that would benefit the project area and that this finding is
30 consistent with the housing element of the community's general
31 plan required by Article 10.6 (commencing with Section 65580)
32 of Chapter 3 of Division 1 of Title 7 of the Government Code,
33 including its share of the regional housing needs of very low
34 income households and persons and families of low or moderate
35 income.

36 (B) This finding shall only be made if the housing element of
37 the community's general plan demonstrates that the community
38 does not have a need to improve, increase, or preserve the supply
39 of low- and moderate-income housing available at affordable
40 housing cost to persons and families of low or moderate income

1 and to very low income households. This finding shall only be
2 made if it is consistent with the planning agency's annual report
3 to the legislative body on implementation of the housing element
4 required by subdivision (b) of Section 65400 of the Government
5 Code. No agency of a charter city shall make this finding unless
6 the planning agency submits the report pursuant to subdivision
7 (b) of Section 65400 of the Government Code. This finding shall
8 not take effect until the agency has complied with subdivision (b)
9 of this section.

10 (2) (A) That some stated percentage less than 20 percent of
11 the taxes that are allocated to the agency pursuant to Section
12 33670 is sufficient to meet the housing needs of the community,
13 including its share of the regional housing needs of persons and
14 families of low- or moderate-income and very low income
15 households, and that this finding is consistent with the housing
16 element of the community's general plan required by Article 10.6
17 (commencing with Section 65580) of Chapter 3 of Division 1 of
18 Title 7 of the Government Code.

19 (B) This finding shall only be made if the housing element of
20 the community's general plan demonstrates that a percentage of
21 less than 20 percent will be sufficient to meet the community's
22 need to improve, increase, or preserve the supply of low- and
23 moderate-income housing available at affordable housing cost to
24 persons and families of low or moderate income and to very low
25 income households. This finding shall only be made if it is
26 consistent with the planning agency's annual report to the
27 legislative body on implementation of the housing element
28 required by subdivision (b) of Section 65400 of the Government
29 Code. No agency of a charter city shall make this finding unless
30 the planning agency submits the report pursuant to subdivision
31 (b) of Section 65400 of the Government Code. This finding shall
32 not take effect until the agency has complied with subdivision (b)
33 of this section.

34 (C) For purposes of making the findings specified in this
35 paragraph and paragraph (1), the housing element of the general
36 plan of a city, county, or city and county shall be current, and
37 shall have been determined by the department pursuant to
38 Section 65585 to be in substantial compliance with Article 10.6
39 (commencing with Section 65580) of Chapter 3 of Division 1 of
40 Title 7 of the Government Code.

(3) (A) That the community is making a substantial effort to meet its existing and projected housing needs, including its share of the regional housing needs, with respect to persons and families of low and moderate income, particularly very low income households, as identified in the housing element of the community's general plan required by Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code, and that this effort, consisting of direct financial contributions of local funds used to increase and improve the supply of housing affordable to, and occupied by, persons and families of low or moderate income and very low income households is equivalent in impact to the funds otherwise required to be set aside pursuant to this section. In addition to any other local funds, these direct financial contributions may include federal or state grants paid directly to a community and which the community has the discretion of using for the purposes for which moneys in the Low and Moderate Income Housing Fund may be used. The legislative body shall consider the need that can be reasonably foreseen because of displacement of persons and families of low or moderate income or very low income households from within, or adjacent to, the project area, because of increased employment opportunities, or because of any other direct or indirect result of implementation of the redevelopment plan. No finding under this subdivision may be made until the community has provided or ensured the availability of replacement dwelling units as defined in Section 33411.2 and until it has complied with Article 9 (commencing with Section 33410).

(B) In making the determination that other financial contributions are equivalent in impact pursuant to this subdivision, the agency shall include only those financial contributions that are directly related to programs or activities authorized under subdivision (e).

(C) The authority for making the finding specified in this paragraph shall expire on June 30, 1993, except that the expiration shall not be deemed to impair contractual obligations to bondholders or private entities incurred prior to May 1, 1991, and made in reliance on the provisions of this paragraph. Agencies that make this finding after June 30, 1993, shall show evidence that the agency entered into the specific contractual

1 obligation with the specific intention of making a finding under
2 this paragraph in order to provide sufficient revenues to pay off
3 the indebtedness.

4 (b) Within 10 days following the making of a finding under
5 either paragraph (1) or (2) of subdivision (a), the agency shall
6 send the Department of Housing and Community Development a
7 copy of the finding, including the factual information supporting
8 the finding and other factual information in the housing element
9 that demonstrates that either (1) the community does not need to
10 increase, improve, or preserve the supply of housing for low- and
11 moderate-income households, including very low income
12 households, or (2) a percentage less than 20 percent will be
13 sufficient to meet the community's need to improve, increase,
14 and preserve the supply of housing for low- and
15 moderate-income households, including very low income
16 households. Within 10 days following the making of a finding
17 under paragraph (3) of subdivision (a), the agency shall send the
18 Department of Housing and Community Development a copy of
19 the finding, including the factual information supporting the
20 finding that the community is making a substantial effort to meet
21 its existing and projected housing needs. Agencies that make this
22 finding after June 30, 1993, shall also submit evidence to the
23 department of its contractual obligations with bondholders or
24 private entities incurred prior to May 1, 1991, and made in
25 reliance on this finding.

26 (c) In any litigation to challenge or attack a finding made
27 under paragraph (1), (2), or (3) of subdivision (a), the burden
28 shall be upon the agency to establish that the finding is supported
29 by substantial evidence in light of the entire record before the
30 agency. If an agency is determined by a court to have knowingly
31 misrepresented any material facts regarding the community's
32 share of its regional housing need for low- and moderate-income
33 housing, including very low income households, or the
34 community's production record in meeting its share of the
35 regional housing need pursuant to the report required by
36 subdivision (b) of Section 65400 of the Government Code, the
37 agency shall be liable for all court costs and plaintiff's attorney's
38 fees, and shall be required to allocate not less than 25 percent of
39 the agency's tax increment revenues to its Low and Moderate
40 Income Housing Fund in each year thereafter.

1 ~~(d) Nothing in this section shall be construed as relieving~~ *This*
2 ~~section does not relieve~~ any other public entity or entity with the
3 power of eminent domain of any legal obligations for
4 replacement or relocation housing arising out of its activities.

5 (e) In carrying out the purposes of this section, the agency may
6 exercise any or all of its powers for the construction,
7 rehabilitation, or preservation of affordable housing for
8 extremely low, very low, low- and moderate-income persons or
9 families, including the following:

10 (1) Acquire real property or building sites subject to Section
11 33334.16.

12 (2) Improve real property or building sites with onsite or
13 offsite improvements, but only if both (A) the improvements are
14 part of the new construction or rehabilitation of affordable
15 housing units for low- or moderate-income persons that are
16 directly ~~benefited~~*benefitted* by the improvements, and are a
17 reasonable and fundamental component of the housing units, and
18 (B) the agency requires that the units remain available at
19 affordable housing cost to, and occupied by, persons and families
20 of extremely low, very low, low, or moderate income for the
21 same time period and in the same manner as provided in
22 subdivision (c) and paragraph (2) of subdivision (f) of Section
23 33334.3.

24 If the newly constructed or rehabilitated housing units are part
25 of a larger project and the agency improves or pays for onsite or
26 offsite improvements pursuant to the authority in this
27 subdivision, the agency shall pay only a portion of the total cost
28 of the onsite or offsite improvement. The maximum percentage
29 of the total cost of the improvement paid for by the agency shall
30 be determined by dividing the number of housing units that are
31 affordable to low- or moderate-income persons by the total
32 number of housing units, if the project is a housing project, or by
33 dividing the cost of the affordable housing units by the total cost
34 of the project, if the project is not a housing project.

35 (3) Donate real property to private or public persons or
36 entities.

37 (4) Finance insurance premiums pursuant to Section 33136.

38 (5) Construct buildings or structures.

39 (6) Acquire buildings or structures.

40 (7) Rehabilitate buildings or structures.

1 (8) Provide subsidies to, or for the benefit of, extremely low
2 income households, as defined by Section 50106, very low
3 income households, as defined by Section 50105, lower income
4 households, as defined by Section 50079.5, or persons and
5 families of low or moderate income, as defined by Section
6 50093, to the extent those households cannot obtain housing at
7 affordable costs on the open market. Housing units available on
8 the open market are those units developed without direct
9 government subsidies.

10 (9) Develop plans, pay principal and interest on bonds, loans,
11 advances, or other indebtedness, or pay financing or carrying
12 charges.

13 (10) Maintain the community's supply of mobilehomes.

14 (11) Preserve the availability to lower income households of
15 affordable housing units in housing developments that are
16 assisted or subsidized by public entities and that are threatened
17 with imminent conversion to market rates.

18 (f) The agency may use these funds to meet, in whole or in
19 part, the replacement housing provisions in Section 33413.
20 However, nothing in this section shall be construed as limiting in
21 any way the requirements of that section.

22 (g) (1) The agency may use these funds inside or outside the
23 project area. The agency may only use these funds outside the
24 project area upon a resolution of the agency and the legislative
25 body that the use will be of benefit to the project. The
26 determination by the agency and the legislative body shall be
27 final and conclusive as to the issue of benefit to the project area.
28 The Legislature finds and declares that the provision of
29 replacement housing pursuant to Section 33413 is always of
30 benefit to a project. Unless the legislative body finds, before the
31 redevelopment plan is adopted, that the provision of low- and
32 moderate-income housing outside the project area will be of
33 benefit to the project, the project area shall include property
34 suitable for low- and moderate-income housing.

35 (2) (A) The Contra Costa County Redevelopment Agency
36 may use these funds anywhere within the unincorporated
37 territory, or within the incorporated limits of the City of Walnut
38 Creek on sites contiguous to the Pleasant Hill BART Station
39 Area Redevelopment Project area. The agency may only use
40 these funds outside the project area upon a resolution of the

1 agency and board of supervisors determining that the use will be
2 of benefit to the project area. In addition, the agency may use
3 these funds within the incorporated limits of the City of Walnut
4 Creek only if the agency and the board of supervisors find all of
5 the following:

6 (i) Both the County of Contra Costa and the City of Walnut
7 Creek have adopted and are implementing complete and current
8 housing elements of their general plans that the Department of
9 Housing and Community Development has determined to be in
10 compliance with the requirements of Article 10.6 (commencing
11 with Section 65580) of Chapter 3 of Division 1 of Title 7 of the
12 Government Code.

13 (ii) The development to be funded shall not result in any
14 residential displacement from the site where the development is
15 to be built.

16 (iii) The development to be funded shall not be constructed in
17 an area that currently has more than 50 percent of its population
18 comprised of racial minorities or low-income families.

19 (iv) The development to be funded shall allow construction of
20 affordable housing closer to a rapid transit station than could be
21 constructed in the unincorporated territory outside the Pleasant
22 Hill BART Station Area Redevelopment Project.

23 (B) If the agency uses these funds within the incorporated
24 limits of the City of Walnut Creek, all of the following
25 requirements shall apply:

26 (i) The funds shall be used only for the acquisition of land for,
27 and the design and construction of, the development of housing
28 containing units affordable to, and occupied by, low- and
29 moderate-income persons.

30 (ii) If less than all the units in the development are affordable
31 to, and occupied by, low- or moderate-income persons, any
32 agency assistance shall not exceed the amount needed to make
33 the housing affordable to, and occupied by, low- or
34 moderate-income persons.

35 (iii) The units in the development that are affordable to, and
36 occupied by, low- or moderate-income persons shall remain
37 affordable for a period of at least 55 years.

38 (iv) The agency and the City of Walnut Creek shall determine,
39 if applicable, whether Article XXXIV of the California
40 Constitution permits the development.

1 (h) The Legislature finds and declares that expenditures or
2 obligations incurred by the agency pursuant to this section shall
3 constitute an indebtedness of the project.

4 (i) The requirements of this section shall only apply to taxes
5 allocated to a redevelopment agency for which a final
6 redevelopment plan is adopted on or after January 1, 1977, or for
7 any area that is added to a project by an amendment to a
8 redevelopment plan, which amendment is adopted on or after the
9 effective date of this section. An agency may, by resolution, elect
10 to make all or part of the requirements of this section applicable
11 to any redevelopment project for which a redevelopment plan
12 was adopted prior to January 1, 1977, subject to any indebtedness
13 incurred prior to the election.

14 (j) (1) (A) An action to compel compliance with the
15 requirement of Section 33334.3 to deposit not less than 20
16 percent of all taxes that are allocated to the agency pursuant to
17 Section 33670 in a Low and Moderate Income Housing Fund
18 shall be commenced within 10 years of the alleged violation. A
19 cause of action for a violation accrues on the last day of the fiscal
20 year in which the funds were required to be deposited in the Low
21 and Moderate Income Housing Fund.

22 (B) An action to compel compliance with the requirement of
23 this section or Section 33334.6 that money deposited in the Low
24 and Moderate Income Housing Fund be used by the agency for
25 purposes of increasing, improving, and preserving the
26 community's supply of low- and moderate-income housing
27 available at affordable housing cost shall be commenced within
28 10 years of the alleged violation. A cause of action for a violation
29 accrues on the date of the actual expenditure of the funds.

30 (C) An agency found to have deposited less into the Low and
31 Moderate Income Housing Fund than mandated by Section
32 33334.3 or to have spent money from the Low and Moderate
33 Income Housing Fund for purposes other than increasing,
34 improving, and preserving the community's supply of low- and
35 moderate-income housing, as mandated, by this section or
36 Section 33334.6 shall repay the funds with interest in one lump
37 sum pursuant to Section 970.4 or 970.5 of the Government Code
38 or may do either of the following:

39 (i) Petition the court under Section 970.6 for repayment in
40 installments.

(ii) Repay the portion of the judgment due to the Low and Moderate Income Housing Fund in equal installments over a period of five years following the judgment.

(2) Repayment shall not be made from the funds required to be set aside or used for low- and moderate-income housing pursuant to this section.

(3) Notwithstanding clauses (i) and (ii) of subparagraph (C) of paragraph (1), all costs, including reasonable attorney fees if included in the judgment, are due and shall be paid upon entry of judgment or order.

(4) Except as otherwise provided in this subdivision, Chapter 2 (commencing with Section 970) of Part 5 of Division 3.6 of Title 1 of the Government Code for the enforcement of a judgment against a local public entity applies to a judgment against a local public entity that violates this section.

(5) This subdivision applies to actions filed on and after January 1, 2006.

(6) The limitations period specified in subparagraphs (A) and (B) of paragraph (1) does not apply to a cause of action brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure.

(k) This section shall become inoperative on July 1, 2007, and, as of January 1, 2008, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2008, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 3. Section 33334.2 is added to the Health and Safety Code, to read:

33334.2. (a) Commencing with the 2007–08 fiscal year and except as otherwise permitted by subdivisions (b) and (c), 50 percent of all taxes that are allocated to the agency pursuant to Section 33670 shall be set aside in the Low and Moderate Income Housing Fund established pursuant to Section 33334.3, and used by the agency for the purposes of increasing, improving, and preserving the community's supply of low- and moderate-income housing available at affordable housing cost, as defined by Section 50052.5, to persons and families of low or moderate income, as defined in Section 50093, lower income households, as defined by Section 50079.5, very low income households, as defined in Section 50105, and extremely low

1 income households, as defined by Section 50106, that is occupied
2 by these persons and families.

3 (b) As to project areas for which a final redevelopment plan
4 was adopted between January 1, 1977, and December 31, 2006,
5 or for any area that is added to a project by an amendment to a
6 redevelopment plan, which amendment is adopted between
7 January 1, 1977 and December 31, 2006, commencing with the
8 2007–08 fiscal year, the agency may deposit into the Low and
9 Moderate Income Housing Fund less than the amount required by
10 subdivision (a) but no less than 20 percent of all taxes that are
11 allocated to the agency pursuant to Section 33670 if the agency
12 finds that the difference between the amount deposited and the
13 amount required by subdivision (a) is necessary to make
14 payments under existing obligations of amounts due or required
15 to be committed, set aside, or reserved by the agency during that
16 fiscal year and are used by the agency for that purpose. For
17 purposes of this section, “existing obligations” means the
18 principal of, and interest on, loans, moneys advanced to, or
19 indebtedness (whether funded, refunded, assumed, or otherwise)
20 incurred by the agency to finance or refinance, in whole or in
21 part, any redevelopment project existing on, and created before
22 January 1, 2007, and contained on the statement of existing
23 obligations adopted pursuant to subdivision (d). Obligations
24 incurred on or after January 1, 2007, shall be deemed existing
25 obligations for purposes of this section if the net proceeds are
26 used to refinance existing obligations contained on the statement.

27 (c) In each fiscal year before the 2012 fiscal year, the agency
28 may deposit less than the amount required by subdivision (a) into
29 the Low and Moderate Income Housing Fund but no less than 20
30 percent of all taxes that are allocated to the agency pursuant to
31 Section 33670 if the agency finds that the deposit of less than the
32 amount required by subdivision (a) is necessary in order to
33 provide for the orderly and timely completion of public and
34 private projects, programs, or activities approved by the agency
35 before January 1, 2007, that are contained on the statement of
36 existing programs adopted pursuant to subdivision (d). Approval
37 of these projects, programs, and activities means approval by the
38 agency of written documents that demonstrate an intent to
39 implement a specific project, program, or activity and is not

1 limited to final approval of a specific project, program, or
2 activity.

3 (d) Any agency that deposits less than the amount required by
4 subdivision (a) into the Low and Moderate Income Housing Fund
5 pursuant to subdivision (b) or (c) shall adopt before September 1,
6 2007, by resolution, after a noticed public hearing, a statement of
7 existing obligations or a statement of existing programs, or both.

8 (1) The agency shall prepare and submit the proposed
9 statement to the legislative body and to the Department of
10 Housing and Community Development before giving notice of
11 the public hearing. Notice of the time and place of the public
12 hearing shall be transmitted to the Department of Housing and
13 Community Development at least 15 days before the public
14 hearing and notice of the time and place of the public hearing
15 shall be published in a newspaper of general circulation in the
16 community once a week for at least two successive weeks before
17 the public hearing. The legislative body shall maintain a record
18 of the public hearing.

19 (2) A copy of the resolution adopted by the agency, together
20 with any amendments to the statement of the agency, shall be
21 transmitted to the Department of Housing and Community
22 Development within 10 days following adoption of the resolution
23 by the agency.

24 (3) A statement of existing obligations shall describe each
25 existing obligation and, based upon the best available
26 information, as determined by the agency, identify the date the
27 obligation was incurred, list the total amount of the existing
28 obligation, the annual payments required to be made by the
29 agency pursuant to the existing obligation, the interest rate, and
30 the date the existing obligation will be discharged in full.

31 (4) A statement of existing programs shall list the specific
32 public and private projects, programs, or activities approved
33 before January 1, 2007, that are necessary for the orderly
34 completion of the redevelopment plan as it existed on January 1,
35 2007. A project, program, or activity shall not be included on the
36 statement of existing programs unless written evidence of the
37 existence and approval of the project, program, or activity before
38 January 1, 2007, is attached to the statement of existing
39 programs.

1 (e) If, pursuant to subdivision (b) or (c), the agency deposits
2 less than 50 percent of the taxes allocated to the agency pursuant
3 to Section 33670 in the Low and Moderate Income Housing
4 Fund, the amount equal to the difference between 50 percent of
5 the taxes allocated to the agency pursuant to Section 33670 for
6 each affected project and the amount deposited that year shall
7 constitute a deficit of the project. In each fiscal year in which the
8 agency has a deficit, the agency shall adopt a plan to eliminate
9 that deficit as soon as feasible. If the agency takes longer than
10 five years to eliminate the deficit, simple interest, at the average
11 rate earned by the housing fund, shall be added to each year's
12 deficit until paid in full.

13 (f) The obligations imposed by this section, including deficits,
14 if any, created under this section, are hereby declared to be an
15 indebtedness of the redevelopment project to which they relate,
16 payable from taxes allocated to the agency pursuant to Section
17 33670, and shall constitute an indebtedness of the agency with
18 respect to the redevelopment project until paid in full.

19 (g) In any litigation to challenge or attack a statement of
20 existing obligations, the decision by the agency after the public
21 hearing to include an existing obligation on the statement of
22 existing obligations, or the decision by the agency after the
23 public hearing to include a project, program, or activity on the
24 statement of existing programs, the court shall uphold the action
25 of the agency unless the court finds that the agency has abused its
26 discretion. The Legislature finds and declares that this standard
27 of review is necessary in order to protect against the possible
28 impairment of existing obligations, programs, and activities if
29 agencies have incurred existing obligations and have adopted
30 projects, programs, and activities with the authority to receive
31 and pledge up to 80 percent of funds authorized by Section
32 33670.

33 (h) This section does not relieve any other public entity or
34 entity with the power of eminent domain of any legal obligations
35 for replacement or relocation housing arising out of its activities.

36 (i) In carrying out the purposes of this section, the agency may
37 exercise any or all of its powers for the construction,
38 rehabilitation, or preservation of affordable housing for
39 extremely low, very low, low- and moderate-income persons or
40 families, including the following:

1 (1) Acquire real property or building sites subject to Section
2 33334.16.

3 (2) (A) Improve real property or building sites with onsite or
4 offsite improvements, but only if both of the following
5 requirement are met:

6 (i) The improvements are part of the new construction or
7 rehabilitation of affordable housing units for low- or
8 moderate-income persons that are directly benefitted by the
9 improvements, and are a reasonable and fundamental component
10 of the housing units.

11 (ii) The agency requires that the units remain available at
12 affordable housing cost to, and occupied by, persons and families
13 of extremely low, very low, low, or moderate income for the
14 same time period and in the same manner as provided in
15 subdivision (c) and paragraph (2) of subdivision (f) of Section
16 33334.3.

17 (B) If the newly constructed or rehabilitated housing units are
18 part of a larger mixed income or mixed use project, the agency
19 may only use the Low and Moderate Income Housing Fund to
20 pay for onsite or offsite improvements pursuant to the authority
21 in this subdivision, in proportion to the percent of the project that
22 complies with the section, subdivision (f) of Section 33334.3,
23 and Section 33418. The maximum percentage of the total cost of
24 the improvements paid for by the agency shall be determined by
25 dividing the number of housing units that are affordable to low-
26 or moderate-income persons by the total number of housing
27 units, if the project is entirely residential, or by dividing the cost
28 of the affordable housing units by the total cost of the project, if
29 the project is mixed use.

30 (3) Donate real property to private or public persons or
31 entities.

32 (4) Finance insurance premiums pursuant to Section 33136.

33 (5) Construct buildings or structures.

34 (6) Acquire buildings or structures.

35 (7) Rehabilitate buildings or structures.

36 (8) Provide subsidies to, or for the benefit of, extremely low
37 income households, as defined by Section 50106, very low
38 income households, as defined by Section 50105, lower income
39 households, as defined by Section 50079.5, or persons and
40 families of low or moderate income, as defined by Section

1 50093, to the extent those households cannot obtain housing at
2 affordable costs on the open market. Housing units available on
3 the open market are those units developed without direct
4 government subsidies.

5 (9) Develop plans to issue debt, pay principal and interest on
6 bonds, loans, advances, or other indebtedness, or pay financing
7 or carrying charges.

8 (10) Maintain the community's supply of mobilehomes.

9 (11) Preserve the availability to lower income households of
10 affordable housing units in housing developments that are
11 assisted or subsidized by public entities and that are threatened
12 with imminent conversion to market rates.

13 (j) The agency may use these funds to meet, in whole or in
14 part, the replacement housing provisions in Section 33413. This
15 section does not limit in any way the requirements of that
16 section.

17 (k) (1) The agency may use these funds inside or outside the
18 project area. The agency may only use these funds outside the
19 project area upon a resolution of the agency and the legislative
20 body that the use will be of benefit to the project. The
21 determination by the agency and the legislative body shall be
22 final and conclusive as to the issue of benefit to the project area.
23 The Legislature finds and declares that the provision of
24 replacement housing pursuant to Section 33413 is always of
25 benefit to a project. Unless the legislative body finds, before the
26 redevelopment plan is adopted, that the provision of low- and
27 moderate-income housing outside the project area will be of
28 benefit to the project, the project area shall include property
29 suitable for low- and moderate-income housing.

30 (2) (A) The Contra Costa County Redevelopment Agency
31 may use these funds anywhere within the unincorporated
32 territory, or within the incorporated limits of the City of Walnut
33 Creek on sites contiguous to the Pleasant Hill BART Station
34 Area Redevelopment Project area. The agency may only use
35 these funds outside the project area upon a resolution of the
36 agency and board of supervisors determining that the use will be
37 of benefit to the project area. In addition, the agency may use
38 these funds within the incorporated limits of the City of Walnut
39 Creek only if the agency and the board of supervisors find all of
40 the following:

1 (i) Both the County of Contra Costa and the City of Walnut
2 Creek have adopted and are implementing complete and current
3 housing elements of their general plans that the Department of
4 Housing and Community Development has determined to be in
5 compliance with the requirements of Article 10.6 (commencing
6 with Section 65580) of Chapter 3 of Division 1 of Title 7 of the
7 Government Code.

8 (ii) The development to be funded shall not result in any
9 residential displacement from the site where the development is
10 to be built.

11 (iii) The development to be funded shall not be constructed in
12 an area that currently has more than 50 percent of its population
13 comprised of racial minorities or low-income families.

14 (iv) The development to be funded shall allow construction of
15 affordable housing closer to a rapid transit station than could be
16 constructed in the unincorporated territory outside the Pleasant
17 Hill BART Station Area Redevelopment Project.

18 (B) If the agency uses these funds within the incorporated
19 limits of the City of Walnut Creek, all of the following
20 requirements shall apply:

21 (i) The funds shall be used only for the acquisition of land for,
22 and the design and construction of, the development of housing
23 containing units affordable to, and occupied by, low- and
24 moderate-income persons.

25 (ii) If less than all the units in the development are affordable
26 to, and occupied by, low- or moderate-income persons, any
27 agency assistance shall not exceed the amount needed to make
28 the housing affordable to, and occupied by, low- or
29 moderate-income persons.

30 (iii) The units in the development that are affordable to, and
31 occupied by, low- or moderate-income persons shall remain
32 affordable for a period of at least 55 years.

33 (iv) The agency and the City of Walnut Creek shall determine,
34 if applicable, whether Article XXXIV of the California
35 Constitution permits the development.

36 (l) The requirements of this section shall only apply to taxes
37 allocated to a redevelopment agency for which a final
38 redevelopment plan is adopted on or after January 1, 1977, or for
39 any area that is added to a project by an amendment to a
40 redevelopment plan, which amendment is adopted between

1 January 1, 1977, and December 31, 2006, or for any area that is
2 added to a project by an amendment to a redevelopment plan on
3 or after the effective date of this section. An agency may, by
4 resolution, elect to make all or part of the requirements of this
5 section applicable to any redevelopment project for which a
6 redevelopment plan was adopted prior to January 1, 1977, subject
7 to any indebtedness incurred before the election.

8 (m) (1) (A) An action to compel compliance with the
9 requirement of Section 33334.3 to deposit not less than 50
10 percent of all taxes that are allocated to the agency pursuant to
11 Section 33670 in a Low and Moderate Income Housing Fund
12 shall be commenced within 10 years of the alleged violation. A
13 cause of action for a violation accrues on the last day of the fiscal
14 year in which the funds were required to be deposited in the Low
15 and Moderate Income Housing Fund.

16 (B) An action to compel compliance with the requirement of
17 this section or Section 33334.6 that money deposited in the Low
18 and Moderate Income Housing Fund be used by the agency for
19 purposes of increasing, improving, and preserving the
20 community's supply of low- and moderate-income housing
21 available at affordable housing cost shall be commenced within
22 10 years of the alleged violation. A cause of action for a violation
23 accrues on the date of the actual expenditure of the funds.

24 (C) An agency found to have deposited less into the Low and
25 Moderate Income Housing Fund than mandated by Section
26 33334.3 or to have spent money from the Low and Moderate
27 Income Housing Fund for purposes other than increasing,
28 improving, and preserving the community's supply of low- and
29 moderate-income housing, as mandated, by this section or
30 Section 33334.6 shall repay the funds with interest in one lump
31 sum pursuant to Section 970.4 or 970.5 of the Government Code
32 or may do either of the following:

33 (i) Petition the court under Section 970.6 of the Government
34 Code for repayment in installments.

35 (ii) Repay the portion of the judgment due to the Low and
36 Moderate Income Housing Fund in equal installments over a
37 period of five years following the judgment.

38 (2) Repayment shall not be made from the funds required to be
39 set aside or used for low- and moderate-income housing pursuant
40 to this section.

(3) Notwithstanding clauses (i) and (ii) of subparagraph (C) of paragraph (1), all costs, including reasonable attorney fees if included in the judgment, are due and shall be paid upon entry of judgment or order.

(4) Except as otherwise provided in this subdivision, Chapter 2 (commencing with Section 970) of Part 5 of Division 3.6 of Title 1 of the Government Code for the enforcement of a judgment against a local public entity applies to a judgment against a local public entity that violates this section.

(5) This subdivision applies to actions filed on and after January 1, 2006.

(6) The limitations period specified in subparagraphs (A) and (B) of paragraph (1) does not apply to a cause of action brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure.

(n) This section shall become operative on July 1, 2007.

SEC. 4. Section 33334.3 of the Health and Safety Code is amended to read:

33334.3. (a) The funds that are required by Section 33334.2 or 33334.6 to be used for the purposes of increasing~~and~~, improving, *and preserving* the community's supply of low- and moderate-income housing shall be held in a separate Low and Moderate Income Housing Fund until used.

(b) Any interest earned by the Low and Moderate Income Housing Fund~~and~~, any repayments or other income to the agency for loans, advances, or grants, of any kind from the Low and Moderate Income Housing Fund, *and all debt proceeds secured by the fund* shall accrue to and be deposited in, the fund and may only be used in the manner prescribed for the Low and Moderate Income Housing Fund.

(c) The moneys in the Low and Moderate Income Housing Fund shall be used to increase, improve, and preserve the supply of low- and moderate-income housing within the territorial jurisdiction of the agency.

(d) (1) It is the intent of the Legislature that the Low and Moderate Income Housing Fund be used to the maximum extent possible to defray the costs of production, improvement, and preservation of low- and moderate-income housing~~and that the~~. *The amount of money budgeted or spent in any fiscal year for planning and general administrative activities associated with the*

1 development, improvement, and preservation of that housing
2 *shall not be disproportionate to the amount actually budgeted or*
3 *spent from the fund during that fiscal year for the costs of*
4 *production, improvement, or preservation of that housing. The*
5 *agency shall determine annually that the planning and*
6 *administrative expenses*~~are~~ *meet the following criteria:*

7 (A) *Are necessary for the production, improvement, or*
8 *preservation of low- and moderate-income housing that complies*
9 *with the affordability, occupancy, durational, and deed*
10 *restriction required by this part.*

11 (B) *Are directly related to the programs and activities*
12 *authorized under subdivision (i) of Section 33334.2.*

13 (C) *Are not disproportionate to the amount actually spent*
14 *during that fiscal year for the costs of production, improvement,*
15 *or preservation of that housing.*

16 (2) *The agency's determinations shall be in writing, and*
17 *supported by substantial evidence on the record. If the agency's*
18 *determinations are challenged, the burden of proof shall be on*
19 *the agency to prove that the agency has complied with the*
20 *requirements of this section.*

21 (e) (1) ~~Planning and general administrative costs which that~~
22 ~~may be paid with moneys from the Low and Moderate Income~~
23 ~~Housing Fund are those expenses incurred by the agency which~~
24 ~~that are directly related to the programs and activities authorized~~
25 ~~under subdivision (e) of Section 33334.2 and are limited to the~~
26 ~~following:~~

27 (A) ~~Costs incurred for salaries, wages, and related costs of the~~
28 ~~agency's staff or for services provided through interagency~~
29 ~~agreements, and agreements with contractors, including usual~~
30 ~~indirect costs related thereto. In order to establish the direct~~
31 ~~relation between the salaries, wages, and related costs of agency~~
32 ~~staff, the services provided through interagency agreements or~~
33 ~~agreements with contractors and affordable housing assisted~~
34 ~~with the fund, the agency shall maintain records that document~~
35 ~~the salaries, wages, related costs, time spent, and substance of~~
36 ~~the activity on each affordable housing development by each~~
37 ~~employee, agency, or contractor compensated by the fund.~~

38 (B) ~~Costs incurred by a nonprofit corporation which that are~~
39 ~~not directly attributable to a specific project.~~

(2) Legal, architectural, and engineering costs and other salaries, wages, and costs directly related to the planning and execution of a specific project ~~which~~ *that* are authorized under subdivision (e) of Section 33334.2 and ~~which~~ *that* are incurred by a ~~nonprofit housing sponsor~~ *developer* are not planning and administrative costs for the purposes of this section, but are instead project costs.

(f) (1) The requirements of this subdivision apply to all new or substantially rehabilitated housing units developed or otherwise assisted, with moneys from the Low and Moderate Income Housing Fund, pursuant to an agreement approved by an agency on or after January 1, 1988. Except to the extent a longer period of time may be required by other provisions of law, the agency shall require that housing units subject to this subdivision shall remain available at affordable housing cost to, and occupied by, persons and families of low or moderate income and very low income and extremely low income households for the longest feasible time, but for not less than the following periods of time:

(A) Fifty-five years for rental units. However, the agency may replace rental units with equally affordable and comparable rental units in another location within the community if (A) the replacement units are available for occupancy prior to the displacement of any persons and families of low or moderate income residing in the units to be replaced and (B) the comparable replacement units are not developed with moneys from the Low and Moderate Income Housing Fund.

(B) Forty-five years for owner-occupied units. However, the agency may permit sales of owner-occupied units prior to the expiration of the 45-year period for a price in excess of that otherwise permitted under this subdivision pursuant to an adopted program which protects the agency's investment of moneys from the Low and Moderate Income Housing Fund, including, but not limited to, an equity sharing program which establishes a schedule of equity sharing that permits retention by the seller of a portion of those excess proceeds based on the length of occupancy. The remainder of the excess proceeds of the sale shall be allocated to the agency and deposited in the Low and Moderate Income Housing Fund. Only the units originally assisted by the agency shall be counted towards the agency's obligations under Section 33413.

1 (C) If land on which those dwelling units are located is deleted
2 from the project area, the agency shall continue to require that
3 those units remain affordable as specified in this subdivision.

4 (2) The agency shall require the recording in the office of the
5 county recorder of covenants or restrictions implementing this
6 subdivision for each parcel, *lot*, or unit of real property subject to
7 this subdivision. Notwithstanding any other provision of law, the
8 covenants or restrictions shall run with the land and shall be
9 enforceable, against the original owner and ~~successors~~ *each*
10 *successor* in interest, by the agency ~~or~~, the community, *or any*
11 *interested party, including, but not limited to, any person or*
12 *family of low or moderate income that is eligible to reside at the*
13 *parcel, lot, or unit of real property, or that is displaced or*
14 *threatened with displacement from the parcel, lot, or unit of real*
15 *property that is subject to the covenants or restrictions. The*
16 *agency shall obtain and maintain a copy of the recorded*
17 *covenants or restrictions for at least the life of the covenants or*
18 *restrictions.*

19 (3) *Simultaneous to the recordation of the covenants or*
20 *restrictions, the agency shall also record a request for*
21 *notification of any resale of the real property for the life of the*
22 *covenants or restrictions and shall obtain and maintain a copy of*
23 *the recorded request for notification for at least the life of the*
24 *covenants or restrictions.*

25 (g) “Housing,” as used in this section, includes residential
26 hotels, as defined in subdivision (k) of Section 37912. The
27 definitions of “lower income households,” “very low income
28 households,” and “extremely low income households” in
29 Sections 50079.5, 50105, and 50106 shall apply to this section.
30 “Longest feasible time,” as used in this section, includes, but is
31 not limited to, unlimited duration.

32 (h) “Increasing, improving, and preserving the community’s
33 supply of low- and moderate-income housing,” as used in this
34 section and in Section 33334.2, includes the preservation of
35 rental housing units assisted by federal, state, or local
36 government on the condition that units remain affordable to, and
37 occupied by, low- and moderate-income households, including
38 extremely low and very low income households, for the longest
39 feasible time, but not less than 55 years, beyond the date the
40 subsidies and use restrictions could be terminated and the

1 assisted housing units converted to market rate rentals. In
2 preserving these units the agency shall require that the units
3 remain affordable to, and occupied by, persons and families of
4 low- and moderate-income and extremely low and very low
5 income households for the longest feasible time but not less than
6 55 years. However, the agency may replace rental units with
7 equally affordable and comparable rental units in another
8 location within the community if ~~(1) the replacement~~ *the*
9 *following conditions are met:*

10 (1) *The replacement units in another location are available for*
11 *occupancy prior to the displacement of any persons and families*
12 *of low or moderate income residing in the units to be replaced*
13 *and (2) the.*

14 (2) *The persons and families of low or moderate income that*
15 *are displaced are given a right of first refusal to occupy the*
16 *replacement units.*

17 (3) *The comparable replacement units are not developed with*
18 *moneys from the Low and Moderate Income Housing Fund.*

19 ~~(i) Agencies that have more than one project area may satisfy~~
20 ~~the requirements of Sections 33334.2 and 33334.6 and of this~~
21 ~~section by allocating, in any fiscal year, less than 20 percent in~~
22 ~~one project area, if the difference between the amount allocated~~
23 ~~and the 20 percent required is instead allocated, in that same~~
24 ~~fiscal year, to the Low and Moderate Income Housing Fund from~~
25 ~~tax increment revenues from other project areas. Prior to~~
26 ~~allocating funds pursuant to this subdivision, the agency shall~~
27 ~~make the finding required by subdivision (g) of Section 33334.2.~~

28 (j)

29 (i) *Funds from the Low and Moderate Income Housing Fund*
30 *shall not be used to the extent that other reasonable means of*
31 *private or commercial financing of the new or substantially*
32 *rehabilitated units at the same level of affordability and quantity*
33 *are reasonably available to the agency or to the owner of the*
34 *units. Prior to the expenditure of funds from the Low and*
35 *Moderate Income Housing Fund for new or substantially*
36 *rehabilitated housing units, where those funds will exceed 50*
37 *percent of the cost of producing the units, the agency shall find,*
38 *based on substantial evidence, that the use of the funds is*
39 *necessary because the agency or owner of the units has made a*
40 *good faith attempt but been unable to obtain commercial or*

1 private means of financing the units at the same level of
2 affordability and quantity.

3 SEC. 5. Section 33334.4 of the Health and Safety Code is
4 amended to read:

5 33334.4. (a) Except as specified in subdivision (d), each
6 agency shall expend over each 10-year period of the
7 implementation plan, as specified in clause (iii) of subparagraph
8 (A) of paragraph (2) of subdivision (a) of Section 33490, the
9 moneys in the Low and Moderate Income Housing Fund to assist
10 ~~housing for persons of low income and housing for persons of~~
11 ~~very low income in at least the same proportion as the total~~
12 ~~number of housing units needed for each of those income groups~~
13 ~~bears to the total number of units needed for persons of~~
14 ~~moderate, low, and very low income within the community, as~~
15 ~~those needs have been determined for the community pursuant to~~
16 ~~Section 65584 of the Government Code. In determining~~
17 ~~compliance with this obligation, the agency may adjust the~~
18 ~~proportion by subtracting from the need identified for each~~
19 ~~income category, the number of units for persons of that income~~
20 ~~category that are newly constructed over the duration of the~~
21 ~~implementation plan with other locally controlled government~~
22 ~~assistance and without agency assistance and that are required to~~
23 ~~be affordable to, and occupied by, persons of the income~~
24 ~~category for at least 55 years for rental housing and 45 years for~~
25 ~~ownership housing, except that in making an adjustment the~~
26 ~~agency may not subtract units developed pursuant to a~~
27 ~~replacement housing obligation under state or federal law in~~
28 ~~making available at least a number of housing units that are~~
29 ~~affordable to, and occupied by, extremely low and very low~~
30 ~~income persons that is equal to the number of units that are~~
31 ~~affordable to low- and moderate-income persons. This section~~
32 ~~does not prevent an agency from expending more of the moneys~~
33 ~~in the Low and Moderate Income Housing Fund to assist units~~
34 ~~that are affordable to extremely low and very low income~~
35 ~~persons than is expended to assist units that are affordable to~~
36 ~~low- and moderate-income persons.~~

37 (b) Each agency shall expend over the duration of each
38 redevelopment implementation plan, the moneys in the Low and
39 Moderate Income Housing Fund to assist housing that is
40 available to all persons regardless of age in at least the same

1 proportion as the number of low-income households with a
2 member under age 65 years bears to the total number of
3 low-income households of the community as reported in the most
4 recent census of the United States Census Bureau.

5 (c) An agency that has deposited in the Low and Moderate
6 Income Housing Fund over the first five years of the period of an
7 implementation plan an aggregate that is less than two million
8 dollars (\$2,000,000) shall have an extra five years to meet the
9 requirements of this section.

10 ~~(d) For the purposes of this section, “locally controlled” means~~
11 ~~government assistance where the community or other local~~
12 ~~government entity has the discretion and the authority to~~
13 ~~determine the recipient and the amount of the assistance, whether~~
14 ~~or not the source of the funds or other assistance is from the state~~
15 ~~or federal government. Examples of locally controlled~~
16 ~~government assistance include, but are not limited to,~~
17 ~~Community Development Block Grant Program (42 U.S.C. Sec.~~
18 ~~5301 and following) funds allocated to a city or county, Home~~
19 ~~Investment Partnership Program (42 U.S.C. Sec. 12721 and~~
20 ~~following) funds allocated to a city or county, fees or funds~~
21 ~~received by a city or county pursuant to a city or county~~
22 ~~authorized program, and the waiver or deferral of city or other~~
23 ~~charges.~~

24 SEC. 6. Section 33334.6 of the Health and Safety Code is
25 amended to read:

26 33334.6. (a) The Legislature finds and declares that the
27 provision of housing is itself a fundamental purpose of the
28 Community Redevelopment Law and that a generally inadequate
29 statewide supply of decent, safe, and sanitary housing affordable
30 to persons and families of low or moderate income, as defined by
31 Section 50093, threatens the accomplishment of the primary
32 purposes of the Community Redevelopment Law, including job
33 creation, attracting new private investments, and creating
34 physical, economic, social, and environmental conditions to
35 remove and prevent the recurrence of blight. The Legislature
36 further finds and declares that the provision and improvement of
37 affordable housing, as provided by Section 33334.2, outside of
38 redevelopment project areas can be of direct benefit to those
39 projects in assisting the accomplishment of project objectives
40 whether or not those redevelopment projects provide for housing

1 within the project area. The Legislature finds and determines that
2 the provision of affordable housing by redevelopment agencies
3 and the use of taxes allocated to the agency pursuant to
4 subdivision (b) of Section 33670 is of statewide benefit and of
5 particular benefit and assistance to all local governmental
6 agencies in the areas where the housing is provided.

7 (b) This section is applicable to all project areas, or portions of
8 project areas, which are not subject to Section 33334.2, except
9 that a project area, or portion of a project area, for which a
10 resolution was adopted pursuant to subdivision (i) of Section
11 33334.2 is subject to this section. Project areas subject to this
12 section which are merged are subject to the requirements of both
13 this section and Section 33487. The deposit of taxes into the Low
14 and Moderate Income Housing Fund in compliance with either
15 this section or Section 33487 shall satisfy the requirements of
16 both sections in the year those taxes are deposited.

17 (c) Except as otherwise permitted by subdivisions (d) and (e),
18 not less than 20 percent of the taxes allocated to the agency
19 pursuant to Section 33670 from project areas specified in
20 subdivision (b) for the 1985–86 fiscal year and each succeeding
21 fiscal year shall be deposited into the Low and Moderate Income
22 Housing Fund established pursuant to Section 33334.3 and used
23 for the purposes set forth in Section 33334.2, unless the agency,
24 by resolution, makes one of the findings described in paragraphs
25 (1) to (3), inclusive, of subdivision (a) of Section 33334.2, except
26 that the authority to make the finding specified in paragraph (3)
27 of subdivision (a) of that section shall expire as specified in that
28 paragraph. Subdivisions (b) and (c) of Section 33334.2 apply if
29 an agency makes any of those findings.

30 (d) In any fiscal year, the agency may deposit less than the
31 amount required by subdivision (c) into the Low and Moderate
32 Income Housing Fund if the agency finds that the difference
33 between the amount deposited and the amount required by
34 subdivision (c) is necessary to make payments under existing
35 obligations of amounts due or required to be committed, set
36 aside, or reserved by the agency during that fiscal year and which
37 are used by the agency for that purpose. For purposes of this
38 section, “existing obligations” means the principal of, and
39 interest on, loans, moneys advanced to, or indebtedness (whether
40 funded, refunded, assumed, or otherwise) incurred by the agency

1 to finance or refinance, in whole or in part, any redevelopment
2 project existing on, and created prior to January 1, 1986, and
3 contained on the statement of existing obligations adopted
4 pursuant to subdivision (f). Obligations incurred on or after
5 January 1, 1986, shall be deemed existing obligations for
6 purposes of this section if the net proceeds are used to refinance
7 existing obligations contained on the statement.

8 (e) In each fiscal year prior to July 1, 1996, the agency may
9 deposit less than the amount required by subdivisions (c) and (d)
10 into the Low and Moderate Income Housing Fund if the agency
11 finds that the deposit of less than the amount required by those
12 subdivisions is necessary in order to provide for the orderly and
13 timely completion of public and private projects, programs, or
14 activities approved by the agency prior to January 1, 1986, which
15 are contained on the statement of existing programs adopted
16 pursuant to subdivision (f). Approval of these projects, programs,
17 and activities means approval by the agency of written
18 documents which demonstrate an intent to implement a specific
19 project, program, or activity and is not limited to final approval
20 of a specific project, program, or activity.

21 (f) Any agency which deposits less than the amount required
22 by subdivision (c) into the Low and Moderate Income Housing
23 Fund pursuant to subdivision (d) or (e) shall adopt prior to
24 September 1, 1986, by resolution, after a noticed public hearing,
25 a statement of existing obligations or a statement of existing
26 programs, or both.

27 (1) The agency shall prepare and submit the proposed
28 statement to the legislative body and to the Department of
29 Housing and Community Development prior to giving notice of
30 the public hearing. Notice of the time and place of the public
31 hearing shall be transmitted to the Department of Housing and
32 Community Development at least 15 days prior to the public
33 hearing and notice of the time and place of the public hearing
34 shall be published in a newspaper of general circulation in the
35 community once a week for at least two successive weeks prior
36 to the public hearing. The legislative body shall maintain a record
37 of the public hearing.

38 (2) A copy of the resolution adopted by the agency, together
39 with any amendments to the statement of the agency, shall be
40 transmitted to the Department of Housing and Community

1 Development within 10 days following adoption of the resolution
2 by the agency.

3 (3) A statement of existing obligations shall describe each
4 existing obligation and, based upon the best available
5 information, as determined by the agency, list the total amount of
6 the existing obligation, the annual payments required to be made
7 by the agency pursuant to the existing obligation, and the date the
8 existing obligation will be discharged in full.

9 (4) A statement of existing programs shall list the specific
10 public and private projects, programs, or activities approved prior
11 to January 1, 1986, which are necessary for the orderly
12 completion of the redevelopment plan as it existed on January 1,
13 1986. No project, program, or activity shall be included on the
14 statement of existing programs unless written evidence of the
15 existence and approval of the project, program, or activity prior
16 to January 1, 1986, is attached to the statement of existing
17 programs.

18 (g) If, pursuant to subdivision (d) or (e), the agency deposits
19 less than 20 percent of the taxes allocated to the agency pursuant
20 to Section 33670 in the 1985–86 fiscal year or any subsequent
21 fiscal year in the Low and Moderate Income Housing Fund, the
22 amount equal to the difference between 20 percent of the taxes
23 allocated to the agency pursuant to Section 33670 for each
24 affected project and the amount deposited that year shall
25 constitute a deficit of the project. The agency shall adopt a plan
26 to eliminate the deficit in subsequent years as determined by the
27 agency.

28 (h) The obligations imposed by this section, including deficits,
29 if any, created under this section, are hereby declared to be an
30 indebtedness of the redevelopment project to which they relate,
31 payable from taxes allocated to the agency pursuant to Section
32 33670, and shall constitute an indebtedness of the agency with
33 respect to the redevelopment project until paid in full.

34 (i) In any litigation to challenge or attack a statement of
35 existing obligations, the decision by the agency after the public
36 hearing to include an existing obligation on the statement of
37 existing obligations, or the decision by the agency after the
38 public hearing to include a project, program, or activity on the
39 statement of existing programs, the court shall uphold the action
40 of the agency unless the court finds that the agency has abused its

1 discretion. The Legislature finds and declares that this standard
2 of review is necessary in order to protect against the possible
3 impairment of existing obligations, programs, and activities
4 because agencies with project areas adopted prior to January 1,
5 1977, have incurred existing obligations and have adopted
6 projects, programs, and activities with the authority to receive
7 and pledge the entire allocation of funds authorized by Section
8 33670.

9 *(j) This section shall become inoperative on July 1, 2007, and,*
10 *as of January 1, 2008, is repealed, unless a later enacted statute,*
11 *that becomes operative on or before January 1, 2008, deletes or*
12 *extends the dates on which it becomes inoperative and is*
13 *repealed.*

14 SEC. 7. Section 33334.6 is added to the Health and Safety
15 Code, to read:

16 33334.6. (a) The Legislature finds and declares that the
17 provision of housing is itself a fundamental purpose of the
18 Community Redevelopment Law and that a generally inadequate
19 statewide supply of decent, safe, and sanitary housing affordable
20 to persons and families of low or moderate income, as defined by
21 Section 50093, threatens the accomplishment of the primary
22 purposes of the Community Redevelopment Law, including job
23 creation, attracting new private investments, and creating
24 physical, economic, social, and environmental conditions to
25 remove and prevent the recurrence of blight. The Legislature
26 further finds and declares that the provision and improvement of
27 affordable housing, as provided by Section 33334.2, outside of
28 redevelopment project areas can be of direct benefit to those
29 projects in assisting the accomplishment of project objectives
30 whether or not those redevelopment projects provide for housing
31 within the project area. The Legislature finds and determines that
32 the provision of affordable housing by redevelopment agencies
33 and the use of taxes allocated to the agency pursuant to
34 subdivision (b) of Section 33670 is of statewide benefit and of
35 particular benefit and assistance to all local governmental
36 agencies in the areas where the housing is provided.

37 (b) This section is applicable to all project areas, or portions of
38 project areas, that are not subject to Section 33334.2, except that
39 a project area, or portion of a project area, for which a resolution
40 was adopted pursuant to subdivision (l) of Section 33334.2 is

1 subject to this section. Project areas subject to this section that
2 are merged are subject to the requirements of both this section
3 and Section 33487. The deposit of taxes into the Low and
4 Moderate Income Housing Fund in compliance with either this
5 section or Section 33487 shall satisfy the requirements of both
6 sections in the year those taxes are deposited.

7 (c) Commencing with the 2007–08 fiscal year and except as
8 otherwise permitted by subdivisions (d) and (e), 50 percent of the
9 taxes allocated to the agency pursuant to Section 33670 from
10 project areas specified in subdivision (b) shall be deposited into
11 the Low and Moderate Income Housing Fund established
12 pursuant to Section 33334.3 and used for the purposes set forth in
13 Section 33334.2.

14 (d) In any fiscal year, the agency may deposit less than the
15 amount required by subdivision (c) into the Low and Moderate
16 Income Housing Fund but no less than 20 percent of all taxes that
17 are allocated to the agency pursuant to Section 33670 if the
18 agency finds that the difference between the amount deposited
19 and the amount required by subdivision (c) is necessary to make
20 payments under existing obligations of amounts due or required
21 to be committed, set aside, or reserved by the agency during that
22 fiscal year and are used by the agency for that purpose. For
23 purposes of this section, “existing obligations” means the
24 principal of, and interest on, loans, moneys advanced to, or
25 indebtedness (whether funded, refunded, assumed, or otherwise)
26 incurred by the agency to finance or refinance, in whole or in
27 part, any redevelopment project existing on, and created before
28 January 1, 1986, and contained on the statement of existing
29 obligations adopted pursuant to subdivision (f), as to the original
30 20 percent set-aside. As to the original 20 percent set-aside,
31 obligations incurred on or after January 1, 1986, shall be deemed
32 existing obligations for purposes of this section if the net
33 proceeds are used to refinance existing obligations contained on
34 the statement. As to the augmented set-aside, for purposes of this
35 section, “existing obligations” means the principal of, and
36 interest on, loans, moneys advanced to, or indebtedness (whether
37 funded, refunded, assumed, or otherwise) incurred by the agency
38 to finance or refinance, in whole or in part, any redevelopment
39 project existing on, and created before January 1, 2007, and

1 contained on the statement of existing obligations adopted
2 pursuant to subdivision (f).

3 (e) In each fiscal year before July 1, 2012, as to the augmented
4 set-aside only, the agency may deposit less than the amount
5 required by subdivision (c) into the Low and Moderate Income
6 Housing Fund but no less than 20 percent of all taxes that are
7 allocated to the agency pursuant to Section 33670 if the agency
8 finds that the deposit of less than the amount required by
9 subdivision (c) is necessary in order to provide for the orderly
10 and timely completion of public and private projects, programs,
11 or activities approved by the agency before January 1, 2007, that
12 are contained on the statement of existing programs adopted
13 pursuant to subdivision (f). Approval of these projects, programs,
14 and activities means approval by the agency of written
15 documents that demonstrate an intent to implement a specific
16 project, program, or activity and is not limited to final approval
17 of a specific project, program, or activity.

18 (f) Any agency that deposits less than the amount required by
19 subdivision (c) into the Low and Moderate Income Housing Fund
20 pursuant to subdivision (d) or (e) shall adopt before September 1,
21 2007, by resolution, after a noticed public hearing, a statement of
22 existing obligations or a statement of existing programs, or both.

23 (1) The agency shall prepare and submit the proposed
24 statement to the legislative body and to the Department of
25 Housing and Community Development before giving notice of
26 the public hearing. Notice of the time and place of the public
27 hearing shall be transmitted to the Department of Housing and
28 Community Development at least 15 days before the public
29 hearing and notice of the time and place of the public hearing
30 shall be published in a newspaper of general circulation in the
31 community once a week for at least two successive weeks before
32 the public hearing. The legislative body shall maintain a record
33 of the public hearing.

34 (2) A copy of the resolution adopted by the agency, together
35 with any amendments to the statement of the agency, shall be
36 transmitted to the Department of Housing and Community
37 Development within 10 days following adoption of the resolution
38 by the agency.

39 (3) A statement of existing obligations shall describe each
40 existing obligation and, based upon the best available

1 information, as determined by the agency, identify the date the
2 obligation was incurred, list the total amount of the existing
3 obligation, the interest rate, the annual payments required to be
4 made by the agency pursuant to the existing obligation, and the
5 date the existing obligation will be discharged in full.

6 (4) A statement of existing programs shall list the specific
7 public and private projects, programs, or activities approved
8 before January 1, 2007, that are necessary for the orderly
9 completion of the redevelopment plan as it existed on January 1,
10 2007. A project, program, or activity shall not be included on the
11 statement of existing programs unless written evidence of the
12 existence and approval of the project, program, or activity before
13 January 1, 2007, is attached to the statement of existing
14 programs.

15 (g) If, pursuant to subdivision (d) or (e), the agency deposits
16 less than 50 percent of the taxes allocated to the agency pursuant
17 to Section 33670 in the Low and Moderate Income Housing
18 Fund, the amount equal to the difference between 50 percent of
19 the taxes allocated to the agency pursuant to Section 33670 for
20 each affected project and the amount deposited that year shall
21 constitute a deficit of the project. In each fiscal year in which the
22 agency has a deficit, the agency shall adopt a plan to eliminate
23 the deficit in subsequent years as soon as feasible. If the agency
24 takes longer than five years to eliminate this deficit simple
25 interest, at the average rate earned by the housing fund, shall be
26 added to each year's deficit, until paid in full.

27 (h) The obligations imposed by this section, including deficits,
28 if any, created under this section, are hereby declared to be an
29 indebtedness of the redevelopment project to which they relate,
30 payable from taxes allocated to the agency pursuant to Section
31 33670, and shall constitute an indebtedness of the agency with
32 respect to the redevelopment project until paid in full.

33 (i) In any litigation to challenge or attack a statement of
34 existing obligations, the decision by the agency after the public
35 hearing to include an existing obligation on the statement of
36 existing obligations, or the decision by the agency after the
37 public hearing to include a project, program, or activity on the
38 statement of existing programs, the court shall uphold the action
39 of the agency unless the court finds that the agency has abused its
40 discretion. The Legislature finds and declares that this standard

1 of review is necessary in order to protect against the possible
2 impairment of existing obligations, programs, and activities
3 because agencies with project areas adopted before January 1,
4 2007, have incurred existing obligations and have adopted
5 projects, programs, and activities with the authority to receive
6 and pledge the entire allocation of funds authorized by Section
7 33670.

8 (j) This section shall become operative on July 1, 2007.

9 SEC. 8. Section 33334.14 of the Health and Safety Code is
10 amended to read:

11 33334.14. (a) The covenants or restrictions imposed by the
12 agency pursuant to subdivision (e) of Section 33334.3 may be
13 subordinated under any of the following alternatives:

14 (1) To a lien, encumbrance, or regulatory agreement under a
15 federal or state program when a federal or state agency is
16 providing financing, refinancing, or other assistance to the
17 housing units or parcels; if the federal or state agency refuses to
18 consent to the seniority of the agency's covenant or restriction on
19 the basis that it is required to maintain its lien, encumbrance, or
20 regulatory agreement or restrictions due to statutory or regulatory
21 requirements, adopted or approved policies, or other guidelines
22 pertaining to the financing, refinancing, or other assistance of the
23 housing units or parcels.

24 (2) To a lien, encumbrance, or regulatory agreement of a
25 lender other than the agency or from a bond issuance providing
26 financing, refinancing, or other assistance of owner-occupied
27 units or parcels where the agency makes a finding that an
28 economically feasible alternative method of financing,
29 refinancing, or assisting the units or parcels on substantially
30 comparable terms and conditions, but without subordination, is
31 not reasonably available.

32 (3) To an existing lien, encumbrance, or regulatory agreement
33 of a lender other than the agency or from a bond issuance
34 providing financing, refinancing, or other assistance of rental
35 units; where the agency's funds are utilized for rehabilitation of
36 the rental units.

37 (4) To a lien, encumbrance, or regulatory agreement of a
38 lender other than the agency or from a bond issuance providing
39 financing, refinancing, or other assistance of rental units or
40 parcels where the agency makes a finding that an economically

1 feasible alternative method of financing, refinancing, or assisting
2 the units or parcels on substantially comparable terms and
3 conditions, but without subordination, is not reasonably
4 available, and where the agency obtains written commitments
5 reasonably designed to protect the agency's investment in the
6 event of default, including, but not limited to, any of the
7 following:

8 (A) A right of the agency to cure a default on the loan.

9 (B) A right of the agency to negotiate with the lender after
10 notice of default from the lender.

11 (C) An agreement that if prior to foreclosure of the loan, the
12 agency takes title to the property and cures the default on the
13 loan, the lender will not exercise any right it may have to
14 accelerate the loan by reason of the transfer of title to the agency.

15 (D) A right of the agency to purchase property from the owner
16 at any time after a default on the loan.

17 (b) Notwithstanding the definition of "construction and
18 rehabilitation" in subdivision (a) of Section 33487, an agency
19 that has merged redevelopment projects pursuant to Article 16
20 (commencing with Section 33485) of Chapter 4, and that is
21 required to deposit taxes into the Low and Moderate Income
22 Housing Fund pursuant to subdivision (a) of Section 33487, may
23 use any of the funds for the purposes and in the manner permitted
24 by Sections 33334.2 and 33334.3. ~~Nothing in this subdivision~~
25 ~~shall~~ *In that event, the time periods specified in subdivision (f) of*
26 *Section 33334.3 shall both be extended to no less than 55 years*
27 *for rental and 45 years for owner-occupied dwelling units. This*
28 *subdivision does not allow an agency with merged project areas*
29 *pursuant to Article 16 (commencing with Section 33485) to*
30 *utilize the provisions of paragraph (1), (2), or (3) of subdivision*
31 *(a) of Section 33334.2 so as to avoid or reduce its obligations to*
32 *deposit taxes from merged project areas into the Low and*
33 *Moderate Income Housing Fund.*

34 SEC. 9. Section 33411.2 of the Health and Safety Code is
35 amended to read:

36 33411.2. As used in this article:

37 (a) "Affordable housing cost" has the same meaning as
38 specified in Section 50052.5.

39 (b) "*Extremely low income households*" has the same
40 meaning as specified in Section 50106.

1 (c) “Persons and families of low or moderate income” has the
2 same meaning as specified in Section 50093.

3 (e)

4 (d) “Replacement dwelling unit” means a dwelling unit
5 developed or constructed pursuant to Section 33413 in
6 replacement of a dwelling unit destroyed or removed from the
7 low- and moderate-income housing market ~~by an agency~~ and
8 which is decent, safe, and sanitary and contains at least the same
9 number of bedrooms and other living areas as the dwelling unit
10 destroyed or removed ~~by the agency~~.

11 (d)

12 (e) “Very low income households” has the same meaning as
13 specified in Section 50105.

14 SEC. 10. Section 33411.3 of the Health and Safety Code is
15 amended to read:

16 33411.3. Whenever all or any portion of a redevelopment
17 project is developed with low- or moderate-income housing units
18 and whenever any low- or moderate-income housing units are
19 developed with any agency assistance or pursuant to Section
20 33413, the agency shall require by contract or other appropriate
21 means that the housing be made available for rent or purchase to
22 the persons and families of low or moderate income displaced by
23 the redevelopment project. Those persons and families shall be
24 given priority in renting or buying that housing. However, failure
25 to give that priority shall not affect the validity of title to real
26 property. The agency shall keep a list of persons and families of
27 low and moderate income displaced by the redevelopment
28 project who are to be given priority, and ~~may~~ *shall* establish
29 reasonable rules for determining the order or priority on the list.

30 SEC. 11. Section 33413 of the Health and Safety Code is
31 amended to read:

32 33413. (a) Whenever dwelling units housing persons and
33 families of low or moderate income are destroyed or removed
34 from the low- and moderate-income housing market *by the*
35 *agency or any other public entity as part of a redevelopment*
36 *project or* as part of a redevelopment project that is subject to a
37 written agreement with the agency or where financial assistance
38 has been provided by the agency, the agency shall, within four
39 years of the destruction or removal, rehabilitate, develop, or
40 construct, or cause to be rehabilitated, developed, or constructed,

1 for rental or sale to persons and families of low or moderate
2 income, an equal number of replacement dwelling units that have
3 an equal or greater number of bedrooms as those destroyed or
4 removed units at affordable housing costs within the territorial
5 jurisdiction of the agency. When dwelling units are destroyed or
6 removed after September 1, 1989, 75 percent of the replacement
7 dwelling units shall replace dwelling units available at affordable
8 housing cost in the same or a lower income level of very low
9 income households, lower income households, and persons and
10 families of low and moderate income, as the persons displaced
11 from those destroyed or removed units. When dwelling units are
12 destroyed or removed on or after January 1, 2002, 100 percent of
13 the replacement dwelling units shall be available at affordable
14 housing cost to persons in the same or a lower income ~~category~~
15 ~~(low, level (extremely low, very low, low, or moderate),~~ as the
16 persons displaced from those destroyed or removed units. *If the*
17 *income level of the displaced household is not verified by or*
18 *otherwise known by the agency, the household shall be presumed*
19 *to be extremely low income.*

20 (b) (1) Prior to the time limit on the effectiveness of the
21 redevelopment plan established pursuant to Sections 33333.2,
22 33333.6, and 33333.10 at least 30 percent of all new and
23 substantially rehabilitated dwelling units developed by an agency
24 shall be available at affordable housing cost to, and occupied by,
25 persons and families of low or moderate income. Not less than 50
26 percent of the dwelling units required to be available at
27 affordable housing cost to, and occupied by, persons and families
28 of low or moderate income shall be available at affordable
29 housing cost to, and occupied by, very low income households.

30 (2) (A) (i) Prior to the time limit on the effectiveness of the
31 redevelopment plan established pursuant to Sections 33333.2,
32 33333.6, and 33333.10 at least 15 percent of all new and
33 substantially rehabilitated dwelling units developed within a
34 project area under the jurisdiction of an agency by public or
35 private entities or persons other than the agency shall be
36 available at affordable housing cost to, and occupied by, persons
37 and families of low or moderate income. Not less than 40 percent
38 of the dwelling units required to be available at affordable
39 housing cost to, and occupied by, persons and families of low or

1 moderate income shall be available at affordable housing cost to,
2 and occupied by, very low income households.

3 (ii) To satisfy this paragraph, in whole or in part, the agency
4 may cause, by regulation or agreement, to be available, at
5 affordable housing cost, to, and occupied by, persons and
6 families of low or moderate income or to very low income
7 households, as applicable, two units outside a project area for
8 each unit that otherwise would have been required to be available
9 inside a project area.

10 (iii) On or after January 1, 2002, as used in this paragraph and
11 in paragraph (1), “substantially rehabilitated dwelling units”
12 means all units substantially rehabilitated, with agency
13 assistance. Prior to January 1, 2002, “substantially rehabilitated
14 dwelling units” shall mean substantially rehabilitated multifamily
15 rented dwelling units with three or more units regardless of
16 whether there is agency assistance, or substantially rehabilitated,
17 with agency assistance, single-family dwelling units with one or
18 two units.

19 (iv) As used in this paragraph and in paragraph (1),
20 “substantial rehabilitation” means rehabilitation, the value of
21 which constitutes 25 percent of the after rehabilitation value of
22 the dwelling, inclusive of the land value.

23 (v) To satisfy this paragraph, the agency may aggregate new
24 or substantially rehabilitated dwelling units in one or more
25 project areas, if the agency finds, based on substantial evidence,
26 after a public hearing, that the aggregation will not cause or
27 exacerbate racial, ethnic, or economic segregation.

28 (B) To satisfy the requirements of paragraph (1) and
29 subparagraph (A), the agency may purchase, or otherwise acquire
30 or cause by regulation or agreement the purchase or other
31 acquisition of, long-term affordability covenants on multifamily
32 units that restrict the cost of renting or purchasing those units that
33 either: (i) are not presently available at affordable housing cost to
34 persons and families of low or very low income households, as
35 applicable; or (ii) are units that are presently available at
36 affordable housing cost to this same group of persons or families,
37 but are units that the agency finds, based upon substantial
38 evidence, after a public hearing, cannot reasonably be expected
39 to remain affordable to this same group of persons or families.

1 (C) To satisfy the requirements of paragraph (1) and
2 subparagraph (A), the long-term affordability covenants
3 purchased or otherwise acquired pursuant to subparagraph (B)
4 shall be required to be maintained on dwelling units at affordable
5 housing cost to, and occupied by, persons and families of low or
6 very low income, for the longest feasible time but not less than
7 55 years for rental units and 45 years for owner-occupied units.
8 Not more than 50 percent of the units made available pursuant to
9 paragraph (1) and subparagraph (A) may be assisted through the
10 purchase or acquisition of long-term affordability covenants
11 pursuant to subparagraph (B). Not less than 50 percent of the
12 units made available through the purchase or acquisition of
13 long-term affordability covenants pursuant to subparagraph (B)
14 shall be available at affordable housing cost to, and occupied by,
15 very low income households.

16 (3) The requirements of this subdivision shall apply
17 independently of the requirements of subdivision (a). The
18 requirements of this subdivision shall apply, in the aggregate, to
19 housing made available pursuant to paragraphs (1) and (2),
20 respectively, and not to each individual case of rehabilitation,
21 development, or construction of dwelling units, unless an agency
22 determines otherwise.

23 (4) Each redevelopment agency, as part of the implementation
24 plan required by Section 33490, shall adopt a plan to comply
25 with the requirements of this subdivision for each project area.
26 The plan shall be consistent with, and may be included within,
27 the community's housing element. The plan shall be reviewed
28 and, if necessary, amended at least every five years in
29 conjunction with either the housing element cycle or the plan
30 implementation cycle. The plan shall ensure that the
31 requirements of this subdivision are met every 10 years. If the
32 requirements of this subdivision are not met by the end of each
33 10-year period, the agency shall meet these goals on an annual
34 basis until the requirements for the 10-year period are met. If the
35 agency has exceeded the requirements within the 10-year period,
36 the agency may count the units that exceed the requirement in
37 order to meet the requirements during the next 10-year period.
38 The plan shall contain the contents required by paragraphs (2),
39 (3), and (4) of subdivision (a) of Section 33490.

(c) (1) The agency shall require that the aggregate number of replacement dwelling units and other dwelling units rehabilitated, developed, constructed, or price-restricted pursuant to subdivision (a) or (b) remain available at affordable housing cost to, and occupied by, persons and families of low-income, moderate-income, and very low income households, respectively, for the longest feasible time, but for not less than 55 years for rental units and 45 years for home ownership units, except as set forth in paragraph (2).

(2) Notwithstanding paragraph (1), the agency may permit sales of owner-occupied units prior to the expiration of the 45-year period established by the agency for a price in excess of that otherwise permitted under this subdivision pursuant to an adopted program that protects the agency's investment of moneys from the Low and Moderate Income Housing Fund, including, but not limited to, an equity sharing program that establishes a schedule of equity sharing that permits retention by the seller of a portion of those excess proceeds, based on the length of occupancy. The remainder of the excess proceeds of the sale shall be allocated to the agency, and deposited into the Low and Moderate Income Housing Fund. The agency shall, within three years from the date of sale of units pursuant to this paragraph, expend funds to make affordable an equal number of units at the same income level as units sold pursuant to this paragraph. Only the units originally assisted by the agency shall be counted towards the agency's obligations under Section 33413.

(3) The requirements of this section shall be made enforceable in the same manner as provided in paragraph (2) of subdivision (f) of Section 33334.3.

(4) If land on which the dwelling units required by this section are located is deleted from the project area, the agency shall continue to require that those units remain affordable as specified in this subdivision.

(d) (1) This section applies only to redevelopment projects for which a final redevelopment plan is adopted pursuant to Article 5 (commencing with Section 33360) on or after January 1, 1976, and to areas that are added to a project area by amendment to a final redevelopment plan adopted on or after January 1, 1976. In addition, subdivision (a) shall apply to any other redevelopment

1 project with respect to dwelling units destroyed or removed from
2 the low- and moderate-income housing market on or after
3 January 1, 1996, irrespective of the date of adoption of a final
4 redevelopment plan or an amendment to a final redevelopment
5 plan adding areas to a project area. Additionally, any agency
6 may, by resolution, elect to make all or part of the requirements
7 of this section applicable to any redevelopment project of the
8 agency for which the final redevelopment plan was adopted prior
9 to January 1, 1976. In addition, subdivision (b) shall apply to
10 redevelopment plans adopted prior to January 1, 1976, for which
11 an amendment is adopted pursuant to Section 33333.10, except
12 that subdivision (b) shall apply to those redevelopment plans
13 prospectively only so that the requirements of subdivision (b)
14 shall apply only to new and substantially rehabilitated dwelling
15 units for which the building permits are issued on or after the
16 date that the ordinance adopting the amendment pursuant to
17 Section 33333.10 becomes effective.

18 (2) An agency may, by resolution, elect to require that
19 whenever dwelling units housing persons or families of low or
20 moderate income are destroyed or removed from the low- and
21 moderate-income housing market as part of a redevelopment
22 project, the agency shall replace each dwelling unit with up to
23 three replacement dwelling units pursuant to subdivision (a).

24 (e) Except as otherwise authorized by law, this section does
25 not authorize an agency to operate a rental housing development
26 beyond the period reasonably necessary to sell or lease the
27 housing development.

28 (f) Notwithstanding subdivision (a), the agency may replace
29 destroyed or removed dwelling units with a fewer number of
30 replacement dwelling units if the replacement dwelling units
31 meet both of the following criteria:

32 (1) The total number of bedrooms in the replacement dwelling
33 units equals or exceeds the number of bedrooms in the destroyed
34 or removed units. Destroyed or removed units having one or no
35 bedroom are deemed for this purpose to have one bedroom.

36 (2) The replacement units are affordable to and occupied by
37 the same income level of households as the destroyed or removed
38 units.

39 (g) "Longest feasible time," as used in this section, includes,
40 but is not limited to, unlimited duration.

SEC. 12. Section 33413.5 of the Health and Safety Code is amended to read:

33413.5. (a) Not less than ~~30~~ 180 days ~~prior to before any action by the agency or any other public entity or the execution of an agreement for acquisition of real property, or the execution of an agreement for the disposition and development of property, or the execution of an owner participation agreement, which agreement would lead to the destruction or removal of dwelling units from the low- and moderate-income housing market, the agency shall adopt by resolution a replacement housing plan. For a reasonable time prior to~~ Not less than 90 days before adopting a replacement housing plan by resolution, the agency shall make available a draft of the proposed replacement housing plan for review and comment by the project area committee, other public agencies, and the general public.

The
(b) The replacement housing plan shall include (1) the ~~general~~ location of housing to be rehabilitated, developed, or constructed pursuant to Section 33413, (2) an adequate means of financing such rehabilitation, development, or construction, (3) a finding that the replacement housing does not require the approval of the voters pursuant to Article XXXIV of the California Constitution, or that such approval has been obtained, (4) the number of dwelling units housing persons and families of low or moderate income planned for construction or rehabilitation, and (5) the timetable for meeting the plan's relocation, rehabilitation, and replacement housing objectives. ~~A~~

(c) A dwelling unit whose replacement is required by Section 33413 but for which no replacement housing plan has been prepared, shall not be destroyed or removed from the low- and moderate-income housing market until the agency has by resolution adopted a replacement housing plan.

~~Nothing in this section shall~~

(d) This section does not prevent an agency from destroying or removing from the low- and moderate-income housing market a dwelling unit which the agency owns and which is an immediate danger to health and safety. The agency shall, ~~as soon as practicable~~, adopt by resolution a replacement housing plan with respect to such dwelling unit within 180 days from the date of destruction or removal. Not less than 90 days before adopting a

1 *replacement housing plan by resolution pursuant to this*
2 *subdivision, the agency shall make available a draft of the*
3 *proposed replacement housing plan for review and comment by*
4 *the project area committee, other public agencies, and the*
5 *general public.*

6 SEC. 13. Section 33487 of the Health and Safety Code is
7 amended to read:

8 33487. (a) Subject to subdivisions (a) and (b) of Section
9 33486, not less than 20 percent of all taxes that are allocated to
10 the redevelopment agency pursuant to Section 33670 for
11 redevelopment projects merged pursuant to this article,
12 irrespective of the date of adoption of the final redevelopment
13 plans, shall be deposited by the agency in the Low and Moderate
14 Income Housing Fund established pursuant to Section 33334.3,
15 or which shall be established for purposes of this section. The
16 agency shall use the moneys in this fund to assist in the
17 construction or rehabilitation of housing units that will be
18 available to, or occupied by, persons and families of low or
19 moderate income, as defined in Section 50093, and very low
20 income households, as defined in Section 50105, for the longest
21 feasible time period but not less than 55 years for rental units and
22 45 years for owner-occupied units. For the purposes of this
23 subdivision, "construction and rehabilitation" shall include
24 acquisition of land, improvements to land; the acquisition,
25 rehabilitation, or construction of structures; or the provision of
26 subsidies necessary to provide housing for persons and families
27 of low or moderate income, as defined in Section 50093, and
28 very low income households, as defined in Section 50105.

29 (b) The agency may use the funds set aside by subdivision (a)
30 inside or outside the project area. However, the agency may only
31 use these funds outside the project area upon a resolution of the
32 agency and the legislative body that the use will be of benefit to
33 the project. This determination by the agency and the legislative
34 body shall be final and conclusive as to the issue of benefit to the
35 project area. The Legislature finds and declares that the provision
36 of replacement housing pursuant to Section 33413 is of benefit to
37 a project.

38 The Legislature finds and declares that expenditures or
39 obligations incurred by the agency pursuant to this section shall
40 constitute an indebtedness of the project.

(c) If moneys deposited in the Low and Moderate Income Housing Fund pursuant to this section have not been committed for the purposes specified in subdivisions (a) and (b) for a period of six years following deposit in that fund, the agency shall offer these moneys to the housing authority that operates within the jurisdiction of the agency, if activated pursuant to Section 34240, for the purpose of constructing or rehabilitating housing as provided in subdivisions (a) and (b). However, if no housing authority operates within the jurisdiction of the agency, the agency may retain these moneys for use pursuant to this section.

(d) If the agency deposits less than 20 percent of taxes allocated pursuant to Section 33670, due to the provisions of subdivisions (a) and (b) of Section 33486, in any fiscal year, a deficit shall be created in the Low and Moderate Income Housing Fund in an amount equal to the difference between 20 percent of the taxes allocated pursuant to Section 33670 and the amount deposited in that year. The deficit, if any, created pursuant to this section constitutes an indebtedness of the project. The agency shall eliminate the deficit by expending taxes allocated in years subsequent to creation of the deficit and, until the time when that deficit has been eliminated, an agency shall not incur new obligations for purposes other than those set forth in Section 33487, except to comply with the terms of any resolution or other agreement pledging taxes allocated pursuant to Section 33670 that existed on the date of merger pursuant to this article.

(e) Notwithstanding subdivision (d) of Section 33413, any agency that merges its redevelopment project areas pursuant to this article shall be subject to subdivisions (a) and (c) of Section 33413.

(f) This section shall become inoperative on July 1, 2007, and, as of January 1, 2008, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2008, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 14. Section 33487 is added to the Health and Safety Code, to read:

33487. (a) Subject to subdivisions (a) and (b) of Section 33486, and except as otherwise permitted by subdivisions (d) and (e), 50 percent of all taxes that are allocated to the redevelopment agency pursuant to Section 33670 for redevelopment projects

merged pursuant to this article, irrespective of the date of adoption of the final redevelopment plans, shall be deposited by the agency in the Low and Moderate Income Housing Fund established pursuant to Section 33334.3, or which shall be established for purposes of this section. The agency shall use the moneys in this fund to assist in the construction or rehabilitation of housing units that will be available to, or occupied by, persons and families of low or moderate income, as defined in Section 50093, and very low income households, as defined in Section 50105, and extremely low income households, as defined in Section 50106, at affordable housing cost, as defined by Section 50052.5, for the longest feasible time period but not less than 55 years for rental units and 45 years for owner-occupied units. For the purposes of this subdivision, “construction and rehabilitation” shall include acquisition of land, improvements to land; the acquisition, rehabilitation, or construction of structures; or the provision of subsidies necessary to provide housing for persons and families of low or moderate income, as defined in Section 50093, and very low income households, as defined in Section 50105 and extremely low income households, as defined in Section 50106.

(b) The agency may use the funds set aside by subdivision (a) inside or outside the project area. However, the agency may only use these funds outside the project area upon a resolution of the agency and the legislative body that the use will be of benefit to the project. This determination by the agency and the legislative body shall be final and conclusive as to the issue of benefit to the project area. The Legislature finds and declares that the provision of replacement housing pursuant to Section 33413 is of benefit to a project.

(c) Commencing with the 2007–08 fiscal year and as to project areas that were merged between January 1, 1981, and December 31, 2006, or for any area that is added to a merged project by an amendment to a redevelopment plan, which amendment is adopted between January 1, 1981, and December 31, 2006, the agency may deposit less than the amount required by subdivision (a), but no less than 20 percent of all taxes that are allocated to the agency pursuant to Section 33670, into the Low And Moderate Income Housing Fund if the agency finds that the difference between the minimum 20 percent deposited and the

1 amount required by subdivision (a) is necessary to make
2 payments under existing obligations of amounts due or required
3 to be committed, set aside, or reserved by the agency during that
4 fiscal year and are used by the agency for that purpose. For
5 purposes of this section, “existing obligations” means the
6 principal of, and interest on, loans, moneys advanced to, or
7 indebtedness (whether funded, refunded, assumed, or otherwise)
8 incurred by the agency to finance or refinance, in whole or in
9 part, any redevelopment project existing on, and created before
10 January 1, 2007, and contained on the statement of existing
11 obligations adopted pursuant to subdivision (e). Obligations
12 incurred on or after January 1, 2007, shall be deemed existing
13 obligations for purposes of this section if the net proceeds are
14 used to refinance existing obligations contained on the statement.

15 (d) In each fiscal year before July 1, 2012, the agency may
16 deposit less than the amount required by subdivision (a) into the
17 Low and Moderate Income Housing Fund if the agency finds that
18 the difference between the minimum 20 percent deposited and
19 the amount required by subdivision (a) is necessary in order to
20 provide for the orderly and timely completion of public and
21 private projects, programs, or activities approved by the agency
22 before January 1, 2007, which are contained on the statement of
23 existing programs adopted pursuant to subdivision (e). Approval
24 of these projects, programs, and activities means approval by the
25 agency of written documents that demonstrate an intent to
26 implement a specific project, program, or activity and is not
27 limited to final approval of a specific project, program, or
28 activity.

29 (e) An agency that deposits less than the amount required by
30 subdivision (a) into the Low and Moderate Income Housing Fund
31 pursuant to subdivision (c) or (d) shall adopt before September 1,
32 2007, by resolution, after a noticed public hearing, a statement of
33 existing obligations or a statement of existing programs, or both.

34 (1) The agency shall prepare and submit the proposed
35 statement to the legislative body and to the Department of
36 Housing and Community Development before giving notice of
37 the public hearing. Notice of the time and place of the public
38 hearing shall be transmitted to the Department of Housing and
39 Community Development at least 15 days before the public
40 hearing and notice of the time and place of the public hearing

1 shall be published in a newspaper of general circulation in the
2 community once a week for at least two successive weeks before
3 the public hearing. The legislative body shall maintain a record
4 of the public hearing.

5 (2) A copy of the resolution adopted by the agency, together
6 with any amendments to the statement of the agency, shall be
7 transmitted to the Department of Housing and Community
8 Development within 10 days following adoption of the resolution
9 by the agency.

10 (3) A statement of existing obligations shall describe each
11 existing obligation, and, based upon the best available
12 information, as determined by the agency, list the total amount of
13 the existing obligation, the date it was incurred, the annual
14 payments required to be made by the agency pursuant to the
15 existing obligation, the interest rate, and the date the existing
16 obligation will be discharged in full.

17 (4) A statement of existing programs shall list the specific
18 public and private projects, programs, or activities approved
19 before January 1, 2007, which are necessary for the orderly
20 completion of the redevelopment plan as it existed on January 1,
21 2007. A project, program, or activity shall not be included on the
22 statement of existing programs unless written evidence of the
23 existence and approval of the project, program, or activity before
24 January 1, 2007, is attached to the statement of existing
25 programs.

26 (f) If, pursuant to subdivision (c) or (d), the agency deposits
27 less than 50 percent of the taxes allocated to the agency pursuant
28 to Section 33670 in the Low and Moderate Income Housing
29 Fund, the amount equal to the difference between 50 percent of
30 the taxes allocated to the agency pursuant to Section 33670 for
31 each affected project and the amount deposited that year, which
32 shall not be less than 20 percent of the taxes allocated to the
33 agency pursuant to Section 33670, shall constitute a deficit of the
34 project. In each fiscal year in which the agency has a deficit, the
35 agency shall adopt a plan to eliminate the deficit as soon as
36 feasible. If the agency takes longer than five years to eliminate
37 this deficit, simple interest, at the average rate earned by the
38 housing fund, shall be added to each year's deficit, until paid in
39 full.

1 (g) The obligations imposed by this section, including deficits,
2 if any, created under this section, are hereby declared to be an
3 indebtedness of the redevelopment project to which they relate,
4 payable from taxes allocated to the agency pursuant to Section
5 33670, and shall constitute an indebtedness of the agency with
6 respect to the redevelopment project until paid in full.

7 (h) In any litigation to challenge or attack a statement of
8 existing obligations, the decision by the agency after the public
9 hearing to include an existing obligation on the statement of
10 existing obligations, or the decision by the agency after the
11 public hearing to include a project, program, or activity on the
12 statement of existing programs, the court shall uphold the action
13 of the agency unless the court finds that the agency has abused its
14 discretion. The Legislature finds and declares that this standard
15 of review is necessary in order to protect against the possible
16 impairment of existing obligations, programs, and activities if
17 agencies have incurred existing obligations and have adopted
18 projects, programs, and activities with the authority to receive
19 and pledge up to 80 percent of funds authorized by Section
20 33670.

21 (i) If moneys deposited in the Low and Moderate Income
22 Housing Fund pursuant to this section are not committed for the
23 purposes specified in subdivisions (a) and (b) for a period of six
24 years following deposit in that fund, the agency shall offer these
25 moneys to the housing authority that operates within the
26 jurisdiction of the agency, if activated pursuant to Section 34240,
27 for the purpose of constructing or rehabilitating housing as
28 provided in subdivisions (a) and (b). If no housing authority
29 operates within the jurisdiction of the agency, the agency may
30 retain these moneys for use pursuant to this section.

31 (j) If the agency deposits less than the original 20 percent of
32 taxes allocated pursuant to Section 33670, due to the provisions
33 of subdivisions (a) and (b) of Section 33486, in any fiscal year, a
34 deficit shall be created in the Low and Moderate Income Housing
35 Fund in an amount equal to the difference between 20 percent of
36 the taxes allocated pursuant to Section 33670 and the amount
37 deposited in that year. The deficit, if any, created pursuant to this
38 section constitutes an indebtedness of the project. The agency
39 shall eliminate the deficit by expending taxes allocated in years
40 subsequent to creation of the deficit and, until the time when that

1 deficit has been eliminated, an agency shall not incur new
2 obligations for purposes other than those set forth in Section
3 33487, except to comply with the terms of any resolution or other
4 agreement pledging taxes allocated pursuant to Section 33670
5 that existed on the date of merger pursuant to this article.

6 (k) Notwithstanding subdivision (d) of Section 33413, any
7 agency that merges its redevelopment project areas pursuant to
8 this article shall be subject to subdivisions (a) and (c) of Section
9 33413.

10 (l) This section shall become operative on July 1, 2007.

O